



AYLESBURY VALE DISTRICT COUNCIL Democratic Services

Please ask for: devcon@aylesburyvaledc.gov.uk;
Switchboard: 01296 585858
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5 March 2019

DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of the **Development Management Committee** will be held at **1.00 pm on Thursday 14 March 2019** in **The Oculus - Aylesbury Vale District Council**, when your attendance is requested.

Contact Officer for meeting arrangements: devcon@aylesburyvaledc.gov.uk;

Membership: Councillors: P Fealey (Chairman), A Bond (Vice-Chairman), J Brandis, M Collins, P Cooper, N Glover, R Khan, T Mills, S Morgan, M Rand, D Town and P Strachan (ex-Officio)

AGENDA

1. APOLOGIES

2. TEMPORARY CHANGES TO MEMBERSHIP

Any changes will be reported at the meeting.

3. DECLARATION OF INTEREST

Members to declare any interests.

4. QUARTERLY PERFORMANCE REPORT - QUARTER 3 (Pages 3 - 20)

To note the Workload and Performance Review for Quarter October to December 2018.

Contact Officer: Henry Allmand

Not before 1.15 pm

5. REPORT OF THE CORPORATE PLANNER

6. OVERVIEW REPORT - FEBRUARY 2019 (Pages 21 - 30)

7. 18/01731/APP - LAND OFF BRILL ROAD OAKLEY (Pages 31 - 52)

Retrospective application for consent to cover part of site in granular hard surfacing using asphalt scrapings.

Case officer: Rebecca Jarratt

8. 18/03976/APP - CARPENTERS ARMS PH, HORTON ROAD, SLAPTON (Pages 53 - 78)

Proposed change of use of public house (Class A4) to single residential dwelling (Class C3).

Case Officer: Daniel Terry

9. 18/03475/APP - NATIONAL WESTMINSTER BANK PLC, 2 MARKET HILL, BUCKINGHAM (Pages 79 - 88)

Change of use of land from public highway to an outdoor seating area

Case Officer: Laura Ashton

10. SITE VISIT ARRANGEMENTS

11. HUMAN RIGHTS ACT (Pages 89 - 90)

Report to Development Management Committee

Workload and Performance Review for Quarter October to December 2018

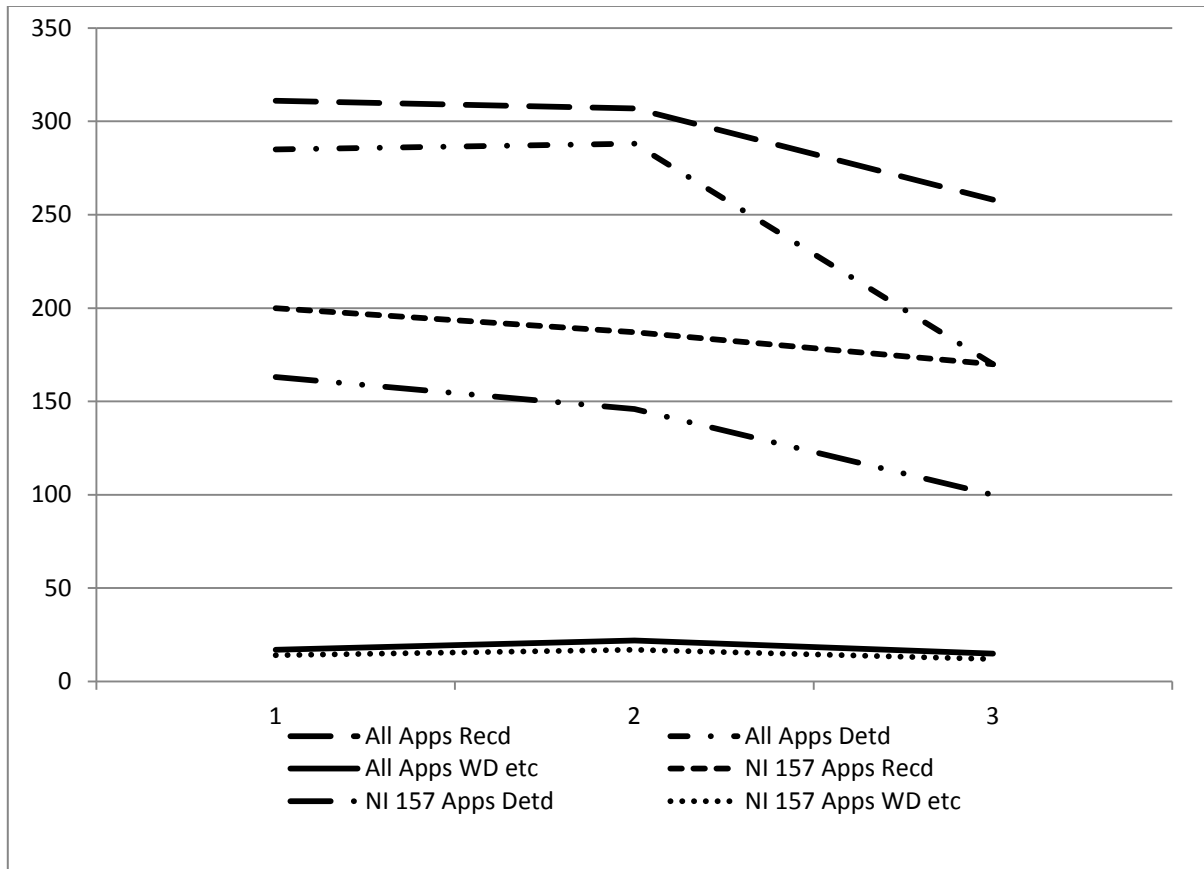
Introduction

This is a report to the Development Management Committee which provides a summary of performance in four key areas of work, planning applications, appeals, enforcement and informal enquiries, together with a brief commentary on each section.

Section 1: Applications received and determined

Our application caseload comprises applications which form the basis for our performance measured against the Government performance target NI157 and other applications which are excluded from these categories and relating to proposals amongst which are applications from the County Council, Notifications for Agricultural, Telecommunications and works to trees. This is set in the context of the rolling 12 month period.

Applications Received and Determined



	Oct	Nov	Dec
All Apps Recd	311	307	258
All Apps Detd	285	288	170
All Apps WD etc	17	22	15
NI 157 Apps Recd	200	187	170
NI 157 Apps Detd	163	146	100
NI 157 Apps WD etc	14	17	12
All O/Standing			
NI 157 O/Standing	767	788	845

Major Applications Received: 35
 Minor/Other Applications Received: 522

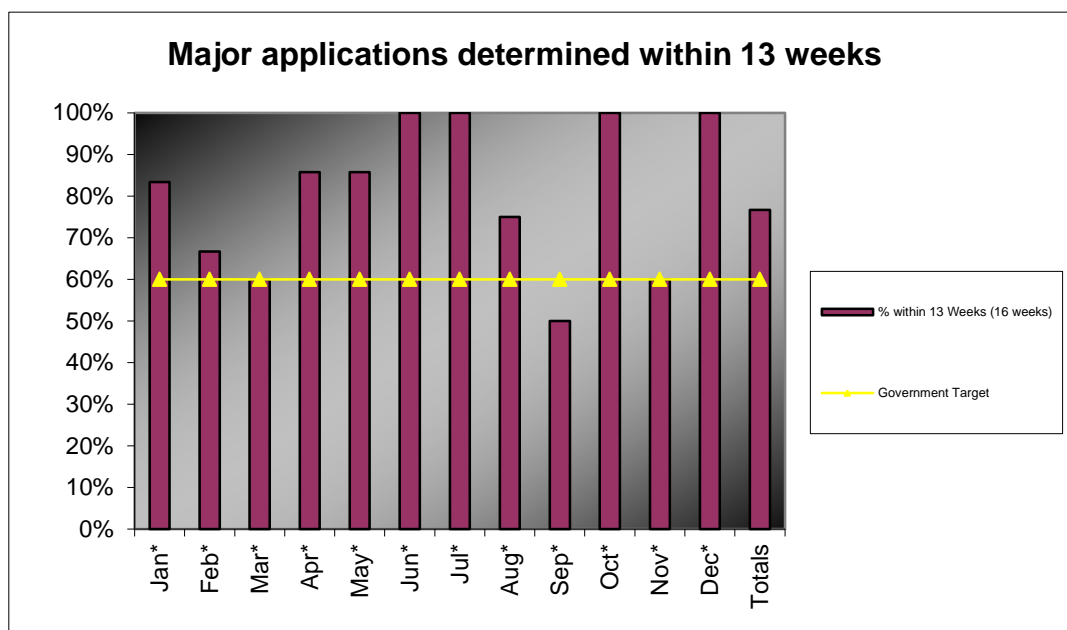
Major Applications Determined: 12
 Minor/Other Applications Determined: 397

Major Applications Outstanding: 123
 Minor/Other Applications Outstanding: 722

Section 2: NI 157 – Speed of Determination of applications

Introduction

This section sets out information regarding our performance in speed of decision for each of the 3 categories of applications, which are measured against the performance target – NI157 (a) major, (b) minor, and (c) other.



	Jan*	Feb*	Mar*	Apr*	May*	Jun*	Jul*	Aug*	Sep*	Oct*	Nov*	Dec*	Totals
Number of Major Applications Decided	6	3	10	7	7	4	1	4	6	2	5	5	60
Number within 13 Weeks (16 weeks) inc. Ext of time*	5	2	6	6	6	4	1	3	3	2	3	5	46
% within 13 Weeks (16 weeks)	83%	67%	60%	86%	86%	100%	100%	75%	50%	100%	60%	100%	77%
Government Target	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%	60%

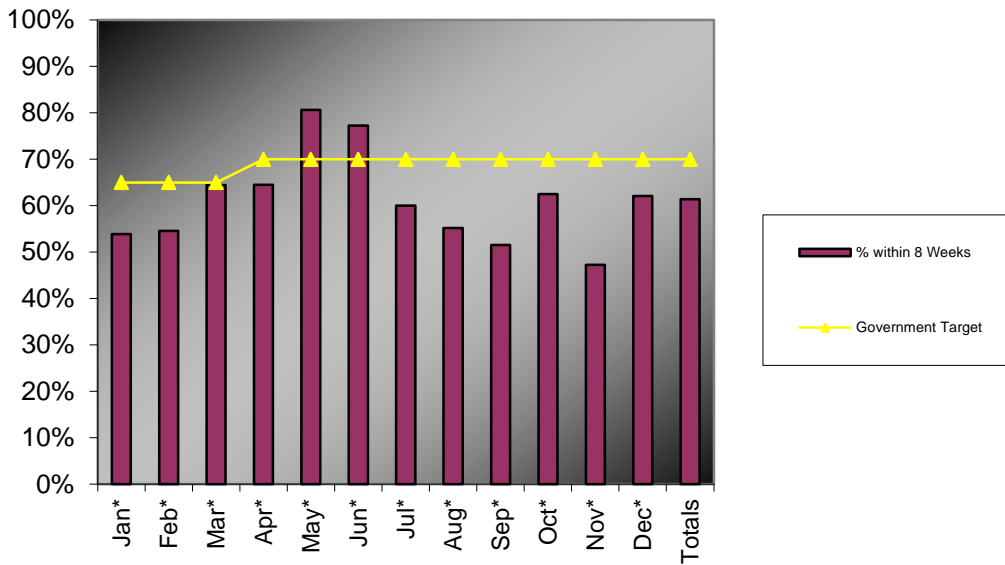
*Including extensions of time & PPAs

The quarterly performance achieved are:

October to December: 83%

Rolling 2 year average: 79%

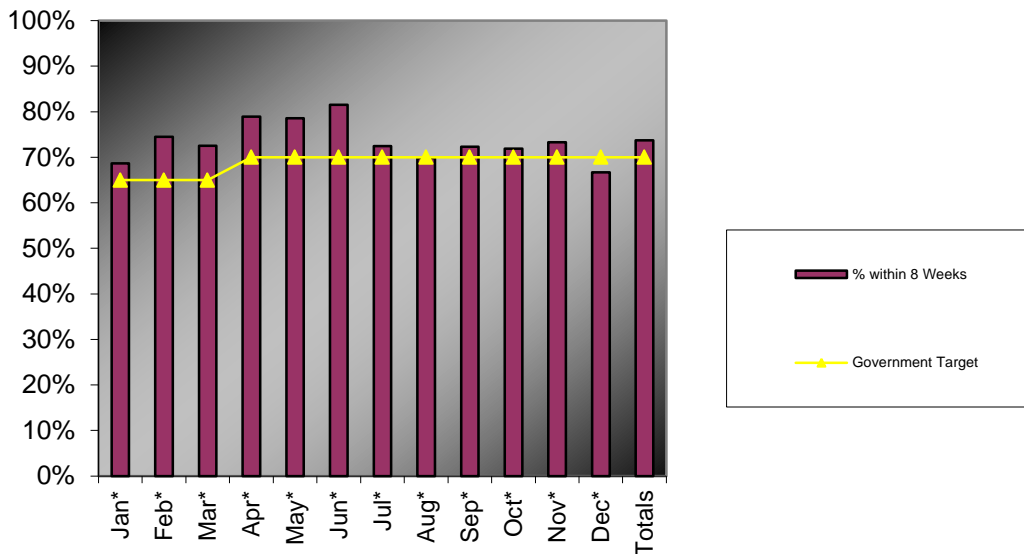
Minor applications determined within 8 weeks



	Jan*	Feb*	Mar*	Apr*	May*	Jun*	Jul*	Aug*	Sep*	Oct*	Nov*	Dec*	Totals
Number of Minor Applications Decided	39	33	45	31	31	44	40	29	33	40	36	29	430
Number within 8 Weeks inc. Ext of time*	21	18	29	20	25	34	24	16	17	25	17	18	264
% within 8 Weeks	54%	55%	64%	65%	81%	77%	60%	55%	52%	63%	47%	62%	61%
Government Target	65%	65%	65%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%

*Including extensions of time

Other applications determined within 8 weeks



	Jan*	Feb*	Mar*	Apr*	May*	Jun*	Jul*	Aug*	Sep*	Oct*	Nov*	Dec*	Totals
Number of Other Applications Decided	99	102	91	95	112	130	109	126	112	121	105	66	1268
Number within 8 Weeks inc. Ext of time*	68	76	66	75	88	106	79	88	81	87	77	44	935
% within 8 Weeks	69%	75%	73%	79%	79%	82%	72%	70%	72%	72%	73%	67%	74%
Government Target	65%	65%	65%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%

For minor and other applications the government previously had no target and so the target of 80% shown was set internally by AVDC. From 1 April 2018 a government target of 70% has been set for minor and other applications increasing to 70% from 1 April 2018.

For the quarter October to December we achieved

Minors: 57% within the time period against a target of 70%
Others: 71% against a target of 70%
Joint minors and others: 68% against a target of 70%
Joint rolling 2 year average: 75% against a target of 70%

Appendix 1 details the Major applications determined in the quarter.

Outstanding applications beyond determination date and without or an expired PPA/extension of time in place as at 21 January 2019.

Majors: 88
Minors and Others: 392

The first planning authorities subject to the Government's "special measures" regime for under-performing authorities were designated in October 2013, and performance data was published by the Department for Communities and Local Government (DCLG). Designations will be reviewed annually. Poorly performing authorities will be "designated" based on speed and quality:

- * Speed: less than 40% of majors determined within 13 weeks averaged over a two year period; or within such extended period as has been agreed in writing between the applicant and the local planning authority.
- * Quality: 20% or more of major applications that have been overturned at appeal (appeals allowed) over a two year period.

The government have announced new government targets increasing those on speed for majors to 50% in 2017 rising to 60% for 2018 based on the previous 2 years October to September. They are combining minors and others into a non major category with a target of 65% in 2017 rising to 70% for 2018 over this 2 year period. The quality targets will be 10% applications that have been overturned at appeal (appeals allowed) over a 2 year period.

Authorities could be designated on the basis of either criteria or both. The current performance over this 2 year period exceeds the threshold for speed and is less than the threshold for quality and thus does not fall within the poorly performing designation.

Section 3: Appeals against refusal of planning permission

Introduction

This section deals numerically with our performance in relation to appeals against refusal of planning permission. Whilst there is no government performance target a benchmarking measure is that we should seek to achieve success in 65% or more of appeals against planning decisions.

Determined	Dismissed	19
	Allowed	9
	Withdrawn/NPW	0
	Split	1
	Turned Away	0
	Varied	0
Costs	Against AVDC	1
	For AVDC	0

*Split decisions are counted as an Allowed appeal

In the quarter between October and December 2018 a total of 35 appeals were determined, 29 of which were against refusals of planning permission. Of the 29 appeals against refusals of planning permission which are used for reporting purposes 31% were allowed which is below the Council's target of not more than 35% appeals allowed.

Attached at Appendix 2 is a list of all of the appeal(s) which are used for reporting purposes against refusals of planning permission that were allowed. As there are a large number of appeals a summary on all has not been provided. There is a summary on some highlighted for awareness and learning points.

The government statistics published in August 2017 for quality show that the percentage of major applications that have been overturned at appeal is 2.4% and that for minor and other developments overturned at appeal is 1.1% for AVDC during the period of 24 months from July 2014 to June 2016. This is well below the governments threshold of 10% overturned for quality.

Section 4: Enforcement

Introduction

This section details statistics relating to Enforcement matters and details the numbers of complaints received, cases closed together with the number of cases which have led to Enforcement action. Enforcement appeals are also dealt with separately and performance can be assessed accordingly.

Cases on hand at beginning of quarter	578	Cases on hand at end of quarter	563
Cases Opened	157	No of Cases closed	172
No. of Enforcement Notices Served	0	No. of Temporary Stop Notices Served	0
No. of Stop Notices Served	0	No. of Breach of Condition Notices Served	0
No. of Injunction Orders	1	No. of Planning Contravention Notices Served	0

In the 3 month reporting period 116 cases were resolved as follows:

Performance Figure	Notes
21% of complaints were resolved within 14 days	Generally more straightforward cases where a yes/no decision is required following initial evidence gathering
36% of complaints were resolved within two months.	Normally requiring more extensive evidence gathering and/or consultations involving 3 rd parties.
57% of complaints were resolved within 5 months.	On top of the actions identified above these cases normally require some formal action or an application for retrospective planning permission.
Remainder	Where formal legal action is involved it can take many years to resolve complaints and can include appeals and further judicial review.

Enforcement Appeals

Lodged	PI (Public Inquiry)	0	Determined	Allowed	0
	IH (Hearing)	0		Dismissed	0
	WR (Written responses)	0		W/Drawn	0
	Total	0		Varied	0
				Total	0
Costs	For AVDC	0		Against AVDC	0

Enforcement Summary

The environment continues to be challenging, but the team is now stabilised and making progress to reduce the numbers of cases open. We have now recruited to a new proactive post which, for example will focus on monitoring of conditions on large sites and reviewing building control applications for work which requires planning permission. In total the team is now 5 posts (one senior role vacant) but also currently supplemented by three experienced contractors.

Overall, the number of outstanding cases continues to be a concern. However, over 110 of these are pending planning applications to regularise or involve the monitoring of compliance with a notice, leaving a residual caseload of around 450.

Our response to complaints is prioritised based on the level of harm the suspected breach is causing. This means that 'low' category complaints will take longer to resolve than those that are causing a 'high' level of harm.

Section 5: Other Workload (Development Management)

Introduction

In addition the teams have dealt with the following:-

Discharge of Conditions and non material amendments.

Quarter – Out	108
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Chargeable Pre-Application Advice, including commercial

Quarter - Out	137
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Non chargeable Informals

Quarter - Out	40
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Conclusion and Recommendation

It is recommended that the Committee **NOTE** the report.

This report primarily intends to give details of factual information based on statistical data.

It is hoped that Members find the report's content helpful.

Major Applications Determined: Quarter October to December 2018

Bold numbers denote applications determined outside the target period. Performance for this quarter is 83% which is above target; * denotes those applications that had an extension of time request agreed. The small number of applications mean that performance is volatile and in this quarter involved applications where securing the right outcome outweighed the need to meet targets and applications where the revocation of the regional spatial strategy required a reassessment of the scheme.

Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
18/01153/ADP*	SP	03/04/2018	Approval of reserved matters pursuant to outline permission 10/02649/AOP relating to 228 new homes as part of village 3 to the Kingsbrook development plus associated infrastructure including a further section of the Stocklake link road.	Land East Of Aylesbury Broughton Crossing Bierton Buckinghamshire	19/04/2018	18/12/2018	Details Approved
18/01699/ADP*	DANRAY	11/05/2018	Application for reserved matters pursuant to outline permission 15/03744/AOP for layout, scale, external appearance, the access, and the landscaping of the site for residential development of up to 40 dwellings It is unknown if a full environment impact assessment was submitted at outline planning stage, but the following documents were submitted: Reptile Survey Landscape and Visual Impact	Land Adjacent To Winslow Road Padbury Buckinghamshire	18/05/2018	21/11/2018	Details Approved

Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
			Assessment Flood Risk Assessment Geotech Report Arboricultural Report				
18/00913/ADP	SP	14/03/2018	Application for approval of Reserved Matters pursuant to Outline Planning Permission (16/04608/AOP) for the residential development of 125 dwellings, open space, landscaping, drainage features and associated infrastructure.	Land Off Lower Road Stoke Mandeville Buckinghamshire	14/03/2018	29/11/2018	Details Approved
16/02244/AOP*	LAUASH	16/06/2016	Outline application with access and layout to be considered for a site for 22 dwellings	Land Adjoining Newmans Close North Marston Lane Whitchurch Buckinghamshire	16/06/2016	19/11/2018	Outline Permission Approved
17/01107/AOP*	SP	23/03/2017	Outline application with access to be considered and all other matters reserved for a residential development of up to 17 dwellings including a new access point off Whaddon Road	Land Off Whaddon Road Newton Longville Buckinghamshire	30/07/2018	16/11/2018	Outline Permission Approved
15/04276/APP*	COLMCK	17/12/2015	Erection of 13 houses with car parking and landscaping	Land South West Of 62 Station Road Quainton Buckinghamshire	01/03/2016	11/10/2018	Approved

Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
16/00047/APP*	SP	07/01/2016	Erection of 10 No. two storey houses contained within 3 No. terraces, with car parking, refuse storage and landscaping works. (Amended scheme with revised access)	Land At Dollicott Paddock Dollicott Haddenham Buckinghamshire	04/03/2016	17/12/2018	Approved
16/03302/APP*	JASTRA	09/09/2016	Provision of a 61 bedroom Care Home with 14 Assisted Living apartments with associated access, parking and landscaping (Reconsideration of the proposal following the quashing of the decision).	Land Rear Of The Grand Junction Public House High Street Buckingham Buckinghamshire	12/09/2016	29/10/2018	Approved
17/01871/APP*	JASTRA	08/05/2017	Residential development comprising 74 dwellings, creation of two new accesses, car parking, leisure facilities, landscaping and associated works.	Land Adjacent To Allotment Gardens Marsworth Road Pitstone Buckinghamshire	08/05/2017	19/12/2018	Approved
17/04373/ADP*	JASTRA	17/11/2017	Application for reserved matters pursuant to outline permission 15/00932/AOP relating to Landscape, Layout and Appearance for the erection of 14 dwelling	66 High Street North Stewkley Buckinghamshire LU7 0EW	23/11/2017	17/12/2018	Approved
18/01396/ADP*	JASTRA	20/04/2018	Approval of Reserved Matters pursuant to outline permission 16/00808/AOP for appearance, landscaping and scale of a residential development of 12 dwellings	Land To The Rear Of 21-39 Clifden Road Worminghall Buckinghamshire	20/04/2018	06/12/2018	Approved

Reference	Off	Received	Proposal	Address	Valid	Decision Date	Decision
18/02438/APP*	DANRAY	10/07/2018	Relocation of Shepherds Furze Farm, Steeple Claydon from Calvert Road, to West Street, Steeple Claydon (to make way for HS2) - and to include the construction of a new farmhouse, new outbuilding and new agricultural general purpose building, construction of concrete farm yard, new site landscaping and alteration of existing farm access track	Shepherds Furze Farm Steeple Claydon To Calvert Road Steeple Claydon Buckinghamshire. MK18 2HH	12/07/2018	19/11/2018	Approved

Appeal performance – Quarter October to December 2018

In the quarter between **October** and **December 2018** a total of 35 appeals were determined, 29 of which were against refusals of planning permission. Of the 29 appeals against refusals of planning permission which are used for reporting purposes 31% were allowed which is below the Council's target of not more than 35% appeals allowed.

A list of all the reportable allowed appeals in this quarter is set out below.

Application Reference: 17/01325/APP	Decision: Delegated
Site: Land To South Of Oving Road Whitchurch Buckinghamshire	
Development: Erection of 10 dwellings with associated access, parking, garaging, landscaping and all enabling works	
<p>Note:</p> <p>The Inspector concluded in this case that although the scheme has an urbanising effect and some harm would result, it would not be considered significant and that the cul de sac layout, although not characteristic would not harm the overall character and appearance of the area.</p> <p>Furthermore, the Inspector acknowledged that the provision of additional dwellings would be a benefit and the development would give rise to some social benefits in that it would provide much needed additional housing, including affordable housing. The development would also bring some minor economic benefits through the construction process and the potential to support local facilities, together with the fact that Whitchurch must be considered to be a sustainable location.</p> <p>In relation to the drainage matters the Inspector was satisfied that this could be conditioned</p> <p>Finally, the Inspector was satisfied with the UU and including having regard to the new NPPF threshold criteria for 10% affordable housing provision and accepted this was a material consideration.</p> <p>Overall, taking all of these factors into account, and given the fact that the proposal is limited to frontage development to Oving Road, the Inspector considered that the adverse impact of the development does not significantly and demonstrably outweigh its benefits. Therefore, the development would represent sustainable development when considering the Framework taken as a whole and granted permission subject to conditions.</p>	

Application Reference: 17/02762/APP	Decision: Committee
Site: Sharps Hill Farm Bicester Road Kingswood Buckinghamshire HP18 0RA	
Development: External alterations to the existing barn	
<p>Note:</p> <p>The main issue for this appeal is the effect of the change in the appearance of the building on the character and appearance of the area.</p> <p>The Inspector acknowledged that the proposed alterations would result in a significant change to the appearance of the building in that a structure which is predominantly open in nature would become largely enclosed on all sides. Nonetheless, there would be no increase in overall size and the proposed materials are those that one might normally expect to find on a building located in the countryside. Whilst the building would be more domestic in appearance, the simplicity of design and choice of materials would ensure that it maintained a rural character which would not be out of keeping with its countryside setting.</p>	

Overall the Inspector concluded that with the imposition of conditions, the change in the appearance of the building arising from the proposed external alterations would result in no material harm to the character or appearance of the area. There would thus be no conflict with policy GP35 of the Council's Local Plan. The Inspector considered that the building as altered could quite feasibly be utilised for agricultural purposes, noting that any subsequent proposal to change the use of the resulting building would need to be assessed separately.

The appeal was allowed and conditional permission granted

Application Reference: 17/03173/APP	Decision: Delegated
Site: Sloping Acre North End Road Quanton Buckinghamshire HP22 4BD	
Development: Proposed demolition of existing dwelling and construction of 3rd new detached houses	
<p>Note:</p> <p>In this case the Inspector concluded that the proposed houses would be within the settlement boundary and within the confines of the village. The proposed plot could comfortably accommodate the three proposed dwellings and the scheme would not represent a cramped form of development. Furthermore, the proposed design would be suitable and of an appropriate appearance, scale and density. As such it was considered by the Inspector that there would not be harmful to the character and appearance of the area or represent an inappropriate form of development for this site. Furthermore, the Inspector found the proposed dwellings as being a sustainable form of development. The proposal was concluded to be in accordance with policy H1 of the Quanton Neighbourhood Plan and policy GP35 of the Aylesbury Vale District Local Plan.</p> <p>In respect of the setting of the listed buildings, the Inspector concluded that the proposal would accord with policy E2 of the Quanton Neighbourhood Plan and the statutory duties set out in the Planning (Listed Buildings and Conservation Area) Act 1990 and the setting of the listed buildings.</p> <p>The Inspector granted permission subject to conditions.</p> <p>Cost claim: This was refused as the council had put forward adequate evidence to support its arguments and did not act unreasonably.</p>	

Application Reference: 17/04340/ALB	Decision: Delegated
Site: Thornborough Mill Mill Lane Thornborough Buckinghamshire MK18 2ED	
Development: Replacement of timber windows with metal. Internal alterations at Second Floor where First to Second Floor staircase is retained.	
<p>Note:</p> <p>The main issue in the appeal is the effect of the proposed works on the significance of the listed building.</p> <p>The Inspector considered that the existing windows have wide frames and wide glazing bars and are clearly modern and are of no historic or aesthetic merit. The Inspector acknowledged that although the Council argued that metal windows would represent an inappropriate use of materials, there was some broad support for the proposal as set out in the appellants' submissions. In addition, the metal windows would provide slim and delicate forms which were present in the historic photographs and were deemed more appropriate to the building than the existing, visually heavier, timber windows.</p> <p>Overall the Inspector accepted that the design and form of the new windows would be a benefit to the listed building, when compared to the modern timber windows and concluded that no harm would arise from this aspect of the proposal and granted listed building consent subject to conditions.</p>	

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Application Reference: 17/04341/ALB	Decision: Delegated
Site: Thornborough Mill Mill Lane Thornborough Buckinghamshire MK18 2ED	
Development: Widening of internal doorway at First Floor. Internal alterations at Second Floor where First to Second Floor staircase is retained.	
<p>Note:</p> <p>This appeal related solely to the widening of the opening at first floor level, the Inspector accepted that the proposal would involve some loss of historic fabric by the enlargement of the opening in the wall.</p> <p>The Inspector concluded that this loss of fabric would represent a very small amount when compared to the remaining fabric and would amount to a minimal and negligible removal of fabric which would have no overall damaging effect on the significance of the listed building and granted listed building consent subject to conditions.</p>	

Application Reference: 18/00662/APP	Decision: Delegated
Site: 7 Church Road Pitstone Buckinghamshire LU7 9HA	
Development: Erection of outbuilding to frontage	
<p>Note:</p> <p>The main issue in this appeal related to the effect of the outbuilding on the character and appearance of the area.</p> <p>The Inspector confirmed that the site is within the Pitstone settlement as defined in the Pitstone Neighbourhood Plan 1 and that Policy 1 supports development within the settlement subject to compliance with other Neighbourhood Plan Policies.</p> <p>The Inspector noted the dwellings on this side of Church Road are terraced and set back from the highway considerably. There are no other outbuildings in front gardens in this part of Church Road.</p> <p>Fundamentally the Inspector considered that the proposed outbuilding was of a modest size but that the scale, height and mass would not be unduly intrusive and concluded that the proposed outbuilding would not conflict with policy 1 and Policy 6 of the Pitstone Neighbourhood Plan and GP35 of the AVDLP.</p>	

Application Reference: 18/00845/APP	Decision: Delegated
Site: 1 Cavendish Close Wendover Buckinghamshire HP22 6LZ	
Development: Erection of two storey side extension, first floor front extension and single storey porch extension. Extension of outbuilding and replacement pitched roof.	
<p>Note:</p> <p>In this case the reasons for refusal related solely to the extent of extensions proposed namely a two storey and first floor front and single storey front extensions. There was no objection raised by the LPA to the replacement outbuilding.</p> <p>The main issue in this appeal is the effect of the proposal on the character and appearance of the existing dwelling and on the streetscene.</p> <p>In relation to the the proposed two storey side extension, the Inspector noted that this would be built up to the edge of the side boundary of the site. At present, other dwellings along this section of Haglis Drive are set back from the highway, giving a relatively spacious appearance to the streetscene. The two storey side extension would abut the footway and, the Inspector concluded</p>	

that the enclosure of this space would result in the appeal property being overbearing and at odds with the positioning of other buildings nearby. Therefore, the Inspector concluded that this element of the proposal would be unacceptably harmful to the streetscene when entering Haglis Drive from Aylesbury Road. Consequently, it would conflict with the provisions of the policy GP9 and GP35 of the AVDLP.

The appeal was **dismissed** insofar as it relates to the two storey side extension, first floor front extension and single storey porch extension. The appeal was **allowed** insofar as it relates to the extension of outbuilding and replacement pitched roof and planning permission is granted for the extension of outbuilding and replacement pitched roof

Application Reference: 18/00897/APP	Decision: Delegated
Site: Manor Hill Cottage Galley Lane Great Brickhill Buckinghamshire MK17 9AB	
Development: Enlargement of existing opening in boundary wall to provide new highways access onto Galley Lane	
Note: The main issues in this appeal are the implications of the proposal for firstly highway safety and secondly the significance and setting of heritage assets.	
In relation to the matter of highway safety, the appeal was supported by a Traffic Count survey which indicated that the available sightlines would be close to the stopping sight distances suggested in Manual For Streets (MFS) Which when considered the good forward visibility and the relatively lightly trafficked road the Inspector acknowledged would reduce the potential for conflict. Furthermore, the proposal would result in the reduction in use of the substandard existing access which the Inspector considered weighed in favour of the appeal. For these reasons, the Inspector concluded on the first main issue, that the proposal would not be likely to compromise highway safety. I thus find no conflict with the advice in MFS, the Buckinghamshire County Council Local Transport Plan 4 March 2016-2036 (which replaced the version 3 cited in the Decision Notice), or the Framework.	
Turning to the second matter, overall the Inspector considered the proposal would have a neutral impact on the setting of the CA and lodges which is synonymous with a finding of no harm. It follows that paragraph 196 of the Framework which relates to proposals that give rise to less than substantial harm does not apply. Furthermore the Inspector also found no conflict with saved Policies GP.35 and GP.53 of the AVDLP.	

Application Reference: 18/01639/APP	Decision: Delegated
Site: 31 Station Road Haddenham Buckinghamshire HP17 8AN	
Development: Part two storey, part single storey side/rear extension and detached garage with storage	
Note: The main issue in this appeal was the effect of the proposed extension and garage on the character and appearance of the area.	
IN this case the Inspector noted that given the location of No 31, the property is not prominent in the street scene and also acknowledged that the original form and character of the pair of semi-detached houses has been altered by the extension at No 29. Having regard to these matters the Inspector considered that the scale of the extension would not be unduly dominant and the proposal would not result in harm to the character or appearance of the street scene. In considering the proposed garage, the Inspector noted that this would replace an existing garage although it would be higher in order to incorporate storage space in the roof space with rooflights. However, due to the location of the proposed garage, at the end of the private drive and given that the dwelling benefits from a generous sized garden, she considered that the garage would not unduly dominate the house, nor would it be an excessively prominent feature	

in the street scene.

Overall, the Inspector concluded that the proposed extension and garage would not conflict with the policies GP9 and GP35 of the AVDLP, in that it would not have a harmful effect on the character or appearance of the area and therefore the appeal was allowed subject to conditions.

Application Reference: 18/01703/APP	Decision: Delegated
Site: Fairhaven Main Street Padbury Buckinghamshire MK18 2BJ	
Development: Demolition of bungalow and erection of a new dwelling	
Note: The main issues in the consideration of this appeal are: the effect of the proposal on the character and appearance of the area; and the effect of the proposal on the living conditions of the occupiers of West Bourn with particular regard to outlook. In considering the merits of the appeal the Inspector noted that there is an extant planning permission to build a two storey dwelling on the appeal site and accepted that this represents a valid fallback position. The Inspector noted the proposal would differ from the consented dwelling in a number of ways, most of which the LPA had raised no particular concerns with. However, the Council considered that the depth of the two storey rear projection of the proposed dwelling, would be excessive when compared with the depth of the two storey rear projection of the consented dwelling, and that this would threaten the setting of the rural landscape beyond the appeal site. However, the Inspector considered that the rear projection of the proposed dwelling would maintain a degree of separation from the rear boundary of the appeal site and would occupy only a limited proportion of its overall width. With lower eaves and ridge height than the main part of the proposed dwelling and the fact that the depth would be less than the overall width of the proposed dwelling the rear projection would be subservient to the main part of the proposed dwelling. He considered that the rear projection would not be particularly noticeable in views from along Main Street and unlikely to be noticeable in views from the wider countryside. Consequently, although the rear projection would be a greater depth than that which could be constructed under the fallback position, the Inspector did not consider that it would be unduly bulky or out of proportion with the main part of the proposed dwelling or give rise to any material harm to the setting of the rural landscape or to the character and appearance of the area. The Inspector concluded on this aspect that the proposal would therefore comply with saved Policy GP35 of the AVDLP and also comply with the aims and objectives of the NPPF and the Council's Design Guide: New Houses in Towns and Villages. Turning to the matter of amenity. The Inspector noted that the property to the immediate west of the appeal site, has a first floor window on its side elevation which faces the appeal site. The proposed dwelling would be sited directly opposite this window and would introduce a greater level of built form into the view from it when compared with the exiting bungalow. It was concluded that though the rear projection of the proposed dwelling would extend further than would be the case for the consented dwelling, it would not do so to a degree which would have any materially greater impact on outlook from this window. Furthermore, he noted that the proposed dwelling would be unlikely to significantly add to the sense of enclosure of the neighbouring property. As such, the conclusion of the Inspector was that the proposed dwelling would not have a materially adverse effect on the living conditions of the occupiers of West Bourn with regard to outlook and would not detrimentally impact on the enjoyment of their home and garden in accordance with policy GP8 of the AVDLP.	

Overall, in this case the Inspector concluded the proposal would not give rise to undue harm to the character and appearance of the area or to neighbour living conditions and would thus comply with the Council's development plan in this regard. In light of this, there would be no adverse impacts that would significantly and demonstrably outweigh the benefits. This was notwithstanding that the benefits, which would include some economic ones from the construction of the proposal, would be modest and could be realised under the fallback position.

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Overview Report:

Introduction

This report has been provided to assist members in the consideration of reports relating to major planning applications for development at settlements in the district. The report summarises the policy framework for the assessment of each development proposal for members consideration in addition to the detailed report relating to each individual application.

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

- 1.1 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.

The Development Plan

- 1.2 The overall strategy of the Aylesbury Vale District Local Plan (AVDLP) is to seek to concentrate the majority of growth (65% housing and employment) at Aylesbury with the remaining 35% in the rural areas. The latter was to be concentrated at a limited number of settlements. Insofar as this overall strategy is one which is based on the principle of achieving sustainable development, it is considered that this is still in general conformity with the NPPF.
- 1.3 Policies RA13 and RA14 relating to the supply of housing district wide form part of that overall housing strategy, and BU1 in respect of Buckingham, are now out of date, given that these identified housing targets for the plan period up to 2011 and the evidence relating to the districts need has changed significantly since these policies were adopted, and are not consistent with the NPPF policies to significantly boost the supply of housing based on up to date evidence. RA 13 and RA14 sought to take a protective approach to development and can only be given very limited weight when considering proposals within or at the edge of settlements identified in Appendix 4. Development proposals on sites are to be considered in the context of policies within the NPPF which sets out the presumption in favour of sustainable development at paragraph 11.
- 1.4 A number of general policies of the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of relevance are GP2, GP8, GP35, GP38 - GP40, GP59, GP84, GP86, GP87, GP88 and GP94. There are a number of other saved policies which might be relevant in a rural context including RA2, RA4, RA6, RA8, RA29, RA36 and RA37. Specific general policies relating to development at Aylesbury include AY1, AY17, AY20, and AY21. Other relevant policies will be referred to in the application specific report.

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

- 1.5 The Council has set out proposed policies and land allocations in the draft Vale of Aylesbury Local Plan. The draft Vale of Aylesbury Local Plan was published and subject to public consultation in summer 2016. Following consideration of the consultation responses, and further work undertaken changes have been made to the draft plan. A report has been considered by the VALP Scrutiny Committee on 26 September and Cabinet on 10 October 2017 on the proposed submission plan. The Cabinet's recommendations were considered by Council on 18 October 2017. The proposed submission was the subject of consultation from, 2 November to 14 December 2017. Following this, the responses have been submitted along with the Plan and supporting documents for examination by an independent planning inspector at the end of February 2018. The examination hearing ran from Tuesday 10 July 2018 to Friday 20 July 2018. The Interim Findings have been set out by the Inspector, and consultation on modifications will be required before adoption can take place. The adoption of the Vale of Aylesbury Local Plan is planned to be in 2019.

- 1.7 Whilst the VALP hearing has taken place there are a number of unresolved objections to the housing strategy and other policies. Paragraph 48 of the NPPF advises on the weight to emerging plans depending on the stage of preparation, unresolved objections and consistency with the NPPF. In view of this the policies in this document can only be given limited weight in planning decisions, however the evidence that sits behind it can be given weight. Of particular relevance are the Settlement Hierarchy Assessment (September 2017). The Housing and Economic Land Availability Assessment (HELAA) (January 2017) is an important evidence source to inform Plan-making, but does not in itself determine whether a site should be allocated for housing or economic development or whether planning permission should be granted. These form part of the evidence base to the draft VALP presenting a strategic picture .

National Planning Policy Framework

- 1.8 The most up to date national policy is set out in the revised NPPF published in February 2019 superseding the earlier July 2018 version. At the heart of the NPPF is the presumption in favour of sustainable development (paragraph 11) in both plan-making and decision-taking.
- 1.9 The NPPF states at paragraph 8 that there are three objectives to sustainable development: economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 1.10 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.(paragraph 9).
- 1.11 The Government's view of what "sustainable development" means in practice is to be found in paragraphs 7 to 211 of the NPPF. Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 1.12 The presumption in favour of sustainable development in decision-taking is explained at paragraph 11 of the NPPF. Plans and decisions should apply a presumption in favour of sustainable development.
For **decision-taking** this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
 - ii. 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.

Foot notes:

6: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 6³); and areas at risk of flooding or coastal change.

7: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.

- 1.13 In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
 - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
 - d) the local planning authority's housing delivery was at least 45% of that required⁹ over the previous three years.

And subject to transitional arrangement set out in Annex 1

- 1.14 Local planning authorities are charged with identifying a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability (paragraphs 67-70) .

- 1.15 The NPPF sets out the means to delivering sustainable development. The following sections and their policies are also relevant to the consideration of all proposals:

- Building a strong competitive economy
- Promoting sustainable transport
- Delivering a sufficient supply homes
- Achieving well designed places
- Making efficient 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

- 1.16 The NPPF sets out that transport issues should be considered from the earliest stages including the impact of development on the network, opportunities from transport infrastructure, promoting walking, cycling and public transport, environmental impacts of traffic and transport infrastructure, patterns of movement. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. (Paragraphs 102-103)

- 1.17 Paragraph 177 of the NPPF states “The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”

- 1.18 The Planning Practice Guidance (PPG) has not yet been fully updated to reflect the new NPPF.

- 1.19 Local guidance relevant to the consideration of this application is contained in the following documents :
- Affordable Housing Supplementary Planning Document (November 2007)
 - Supplementary Planning Guidance on Sport and Leisure Facilities (August 2004)
 - Sport and Leisure Facilities SPG Companion Document Ready Reckoner (August 2005)
 - Five year housing land supply position statement (June 2018)
 - Affordable Housing Policy Interim Position Statement (June 2014)
- 1.20 Those documents which have been the subject of public consultation and the formal adoption of the Council can be afforded significant weight insofar as they remain consistent with the policies of the NPPF.

Housing supply

- 1.21 To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 1.22 Paragraph 60 requires that strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.
- 1.23 Where the Council cannot demonstrate a 5 year housing land supply (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years, there is a presumption in favour of sustainable development in line with paragraph 11 of the NPPF. The absence of an NPPF compliant supply or delivery of housing would add to the weight attached to the benefit arising from the contribution made to the supply of housing and boosting the delivery of housing generally. Transitional arrangements for the Housing Delivery Test are set out in Annex 1.
- 1.24 In the absence of a figure for the Full Objective Assessment of Need which will emerge through the plan making process which will also need to consider potential unmet needs from adjoining authorities not within the Housing Market Area, the council has set out its approach in the published Five year housing land supply position statement. This is regularly updated and the latest version is dated June 2018 to take account of the new planning permissions and completions up to the new base date of the 31 March 2018. It also updates the estimated delivery of sites based on the latest information.
- 1.25 This continues to use the proposed Full Objectively Assessed Need (FOAN) identified in the Buckinghamshire Housing and Economic Development Needs Assessment (HEDNA) Update December 2016 and addendum (September 2017) (970 dwellings per annum). This represents the most appropriate need requirement figure as it considers the district's own objectively assessed needs as well as that within the housing market area. Based on the findings of the HEDNA, the housing land supply document shows we have a 11.7 year supply this year (compared with 9 years previously). 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.
- 1.26 It is acknowledged that this 5 year housing land supply calculation does not include any element of unmet need, however at this stage it would not be appropriate to do so. Whilst the unmet need figure has progressed, it has not been tested through examination and it would not be appropriate to use a 'policy on' figure for the purposes of calculating a 5 year housing land supply for Aylesbury until the "policy on" figures and general policy approach has been examined and found sound. There are no up-to-date housing supply policies in AVDLP and therefore we still

have to take into account the presumption in favour of sustainable development and apply the planning balance exercise in paragraph 11 of the NPPF. For neighbourhood plans which are considered up to date the starting point for determining such applications is to consider in accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004) and paragraph 14 of the NPPF as set out above is also relevant.

Neighbourhood Planning

- 1.27 Paragraph 29 and 30 states: Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies¹⁶.
- 1.28 Paragraph 30 states that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.
- 1.29 The Neighbourhood Planning Act 2017 (the “Act”) came into force on 19 July 2017 and makes two provisions which are relevant:

Firstly, Section 1 of the Act amends section 70 of the Town and Country Planning Act 1990 to require a local planning authority or other planning decision-taker to have regard to a post-examination neighbourhood plan when determining a planning application, so far as that plan is material to the application.

Secondly, Section 3 amends section 38 of the Planning and Compulsory Purchase Act 2004 to provide for a neighbourhood plan for an area to become part of the development plan for that area after it is approved in each applicable referendum (a residential referendum and, where the area is a business area, a business referendum). In the very limited circumstances that the local planning authority might decide not to make the neighbourhood development plan, it will cease to be part of the development plan for the area.

Further advice is also set out in the NPPG which has not been fully updated since the revised NPPF.

Prematurity

- 1.30 Government policy emphasises the importance of the plan led process, as this is the key way in which local communities can shape their surroundings and set out a shared vision for their area. It also emphasises its importance to the achievement of sustainable development.
- 1.31 Paragraph 49 states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
 - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
- 1.32 Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process(paragraph 50)

Conclusion on policy framework

- 1.33 In considering each individual report, Members are asked to bear in mind that AVDLP (and any 'made' Neighbourhood Plans as applicable) constitutes the development plan. The emerging VALP will gather increasing weight as it moves forward but has not yet reached a stage at which it could be afforded any weight in decision-taking nor at which a refusal on grounds of prematurity could be justified. The Council can currently demonstrate a 5 year supply of housing land based on the latest housing land supply calculation.
- 1.34 Therefore, the Council's position is that full weight should be given to housing supply and other policies set out in any made Neighbourhood Plan Decisions should be taken in accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004) and the NPPF as a whole, including paragraph 11 and 14.
- 1.35 Where a Neighbourhood Plan is not in place, decisions for housing developments should be taken in accordance with paragraph 11 of the NPPF, granting permission unless the application of policies in this Framework 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 and where necessary each report advises Members on the planning balance.

Whether the proposals would constitute a sustainable form of development

- Each report examines the relevant individual requirements of delivering sustainable development as derived from the NPPF which are:
 - Building a strong competitive economy
 - Promoting sustainable transport
 - Delivering a sufficient supply homes
 - Achieving well designed places
 - Making efficient 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
- 1.36 These are considered in each report and an assessment made of the benefits associated with each development together with any harm that would arise from a failure in meeting these objectives and how these considerations should be weighed in the overall planning balance.

Building a strong, competitive economy / Ensure the vitality of town centres / Delivering a wide choice of high quality homes

- 1.37 Members will need to assess whether the development would will support the aims of securing 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. Paragraph 83 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and the development and diversification of agricultural and other land-based rural businesses.
- 1.38 Members will also need to consider whether each development proposal provides for a mix of housing based on current and future demographic trends, markets and community needs, of an appropriate size, type and tenure including the provision of affordable housing. Key to the

consideration of this point is the use of local housing needs assessment targets and the Council's ability or otherwise to demonstrate a 5 year supply of housing land. Further advice is given on affordable housing provision, including the requirement for 10% of the homes to be available for affordable home ownership on major housing development proposals. The definition of affordable is set out in Appendix 2. The new Housing Delivery Test (HDT) applies from the day following publication of the HDT results in November 2018. A transitional arrangement is set out in paragraph 215 and 216 phasing the % threshold where delivery is below of housing required over 3 years increasing from 25% November 2018, to 45% November 2019 and 75% November 2020.

Promote sustainable transport

- 1.39 It is necessary to consider whether these developments are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised, 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.
- 1.40 The promotion of sustainable transport is a core principle of the NPPF and patterns of growth should be actively managed to make the fullest possible use of public transport, walking and cycling and to focus significant development in locations which are or can be made sustainable.

Conserving and enhancing the natural environment

- 1.41 Members will need to consider how the development proposals contribute to and enhance the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains and preventing any adverse effects of pollution.
- 1.42 By their very nature, the majority of extensions of a settlement will result in development in the open countryside given that they are generally outside the built limits of the existing settlement. However, the actual and perceived extent to which they 'intrude' into the open countryside will vary and this will need to be assessed having regard to visibility and other physical factors.
- 1.43 In general, it will be important to ensure that the individual setting and character of each settlement is not adversely affected by the outward expansion of the town or village. This will necessarily involve individual assessments of the effects on the specific character and identity of each settlement, but will not necessarily be adverse simply as a result of a decrease in physical separation as any impacts may be successfully mitigated.
- 1.44 Members will need to consider the overall impact of each development assess the ability of the proposed development to be successfully integrated through mitigation.

Conserving and enhancing the historic environment

- 1.45 A positive strategy under paragraph 185 of the NPPF is required for conservation and enjoyment of the historic environment and an assessment will need to be made of how the development proposals sustain and enhance the significance of heritage assets and the positive contribution that conservation of assets can make to sustainable communities as well as the need to make a positive contribution to local character and distinctiveness.
- 1.46 The effects of specific developments will need to be assessed having regard to the site characteristics, specific impacts and ability to successfully mitigate. The Committee will need to consider the significance of any heritage assets affected including any contribution made by their setting. When considering the impact on the significance, great weight should be given to the asset's conservation and the more important the asset the greater the weight should be.

Promoting healthy and safe communities.

- 1.47 Decisions should aim 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.
- 1.48 It will therefore be necessary to consider how each scheme addresses these issues.

Making effective use of land

- 1.49 Section 11 of the NPPF requires that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land. Planning decisions should take into account the identified need for different types of housing and other development, local market conditions and viability, infrastructure requirements, maintaining the prevailing character and setting, promoting regeneration and securing well designed, attractive and healthy places.

Achieving well designed places

- 1.50 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.
- 1.51 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) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 1.52 Permission should be refused for development of 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 in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Members will need to consider whether these issues have been dealt with satisfactorily.

Meeting the challenge of climate change

- 1.53 Developments will need to demonstrate resilience to climate change and support the delivery of renewable and low carbon energy.
- 1.54 This will not only involve considerations in terms of design and construction but also the locational factors which influence such factors. Development should be steered away from vulnerable areas such as those subject to flood risk whilst ensuring that it adequately and appropriately deals with any impacts arising.

S106 / Developer Contributions

- 1.55 Paragraph 56 of the NPPF states that planning obligations must only be sought where they meet all of the following tests
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development
- 1.56 Paragraph 57 of the NPPF states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage

Overall planning balance

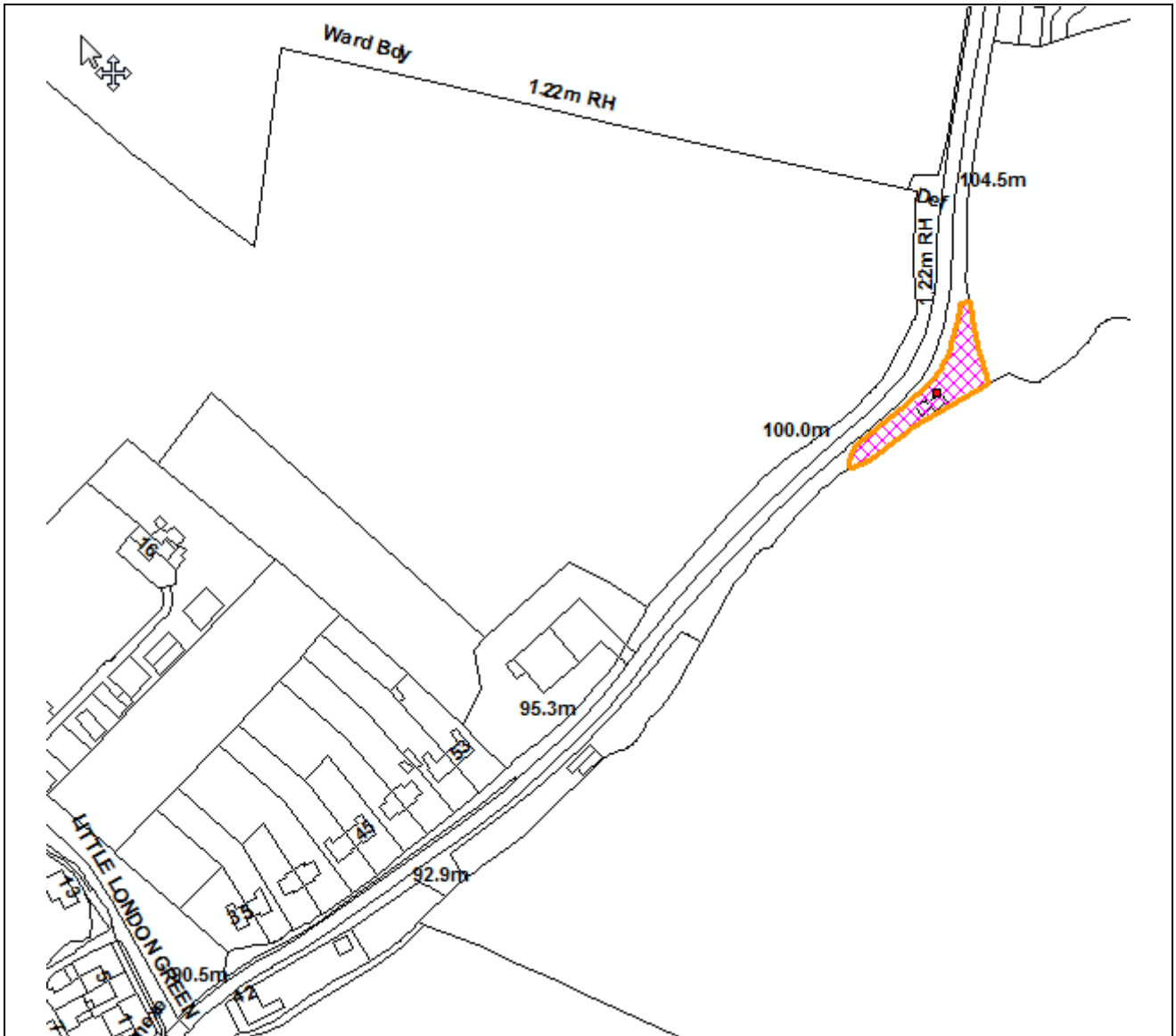
- 1.57 All of these matters, including housing land supply and delivery will need to be taken into account in striking an overall planning balance..

Conclusions

- 1.58 The concluding paragraphs of each report, where Members are asked to either reach a view on how they would have decided or can determine an application, will identify whether the proposed development is or is not in accordance with the development plan, and the weight to be attached to any material considerations. The planning balance will then be set out, leading to a recommendation as to whether permission would have been, or should be, granted (as the case may be), and the need to impose conditions or secure planning obligations or if permission would have been, or should be refused, the reasons for doing so.

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18/01731/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/01731/APP	OAKLEY The Local Member for this area is: - Councillor Michael Rand	17/05/18
RETROSPECTIVE APPLICATION FOR CONSENT TO COVER PART OF SITE IN GRANULAR HARD SURFACING USING ASPHALT SCRAPINGS. LAND OFF BRILL ROAD HP18 9QN MR AMBROSE SMITH STREET ATLAS PAGE NO. 109		

1.0 The Key Issues in determining this application are:-

a) Impact on the character and appearance of the area and surrounding Area of Attractive Landscape

The recommendation is that permission be **GRANTED**

CONCLUSION

It is considered that the materials used would be acceptable for the purpose of the site. In regards to its relationship with the surrounding area and the Area of Attractive Landscape, the hardstanding would not be generally visible from the vast majority of the areas in the immediate vicinity of the site. Whilst it is accepted that the hard standing would not be visually pleasing it is considered that it would not be overtly visually intrusive to amount to demonstrable harm that would warrant the refusal of planning permission. The material used is considered to be of a porous nature and would not result in a flood risk with drainage channels running adjacent to the front and rear of the site.

As such it is considered that the proposal would comply with policies GP35, GP77 and RA8 of the AVDLP or the advice within the NPPF.

APPROVED unconditionally.

WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, Aylesbury Vale District Council (AVDC) takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. AVDC works with applicants/agents in a positive and proactive manner by offering a pre-application advice service and updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions. In this case, the application was considered to be acceptable as submitted and no further assistance was required.

2.0 INTRODUCTION

- 2.1 The Local Member, Councillor Rand, has requested that the application be considered by the Committee for the following reasons:
The covering of the site in hard surfacing will result in permanent harm to the character and appearance of the landscaping within an area which is designated as an Attractive Landscape Area (AAL) and will detract from rural character of the land which will be changed permanently (as it will presumably be very difficult to return the land to agricultural use). This is contrary to Local Plan policies RA8, RA2 and GP77 as well as emerging local land policies C2 and paragraph 109 of the NPPF (2012). Paragraph 170 of the revised NPPF, 2019 correlates.

3.0 SITE LOCATION AND DESCRIPTION

- 3.1 The application site relates to a small parcel of land, about 770m², located off the Oakley Road, between the parishes of Brill and Oakley. The site is accessed via a gate off the highway, and is made up of a mix of hardstanding formed of asphalt scrapings with a small amount of other rubble, and grass. A 1.8 metre fence runs across the north-west boundary of the site, and along the rear boundary. A travelling caravan and a corrugated structure is also sited here. The fence and caravan do not benefit from planning permission and are subject of concurrent planning applications for their retention.
- 3.2 The corrugated structure is referred to as a stable in the application and has evidently been on site in some form for a considerable number of years. The application states that the site is used for intermittent stabling of two horses.
- 3.3 The site is isolated from both of the parish settlements, with no residential properties within 100m of the site. The site is located within the Brill-Winchendon Hills Area of Attractive Landscape (AAL), which is characterised by rolling hillside. The nearest public footpaths are 400m to the northwest, 270m to the south, and bridleways lie around 520m to the northwest and 470m to the east.
- 3.4 The northern-most tip of the site is located within an area of surface water flood risk rated "less".

4.0 PROPOSAL

- 4.1 This application seeks retrospective planning permission for the creation of a granular hard surfacing using asphalt scrapings. The surface covers the north section of the site, around 490m, with the remaining section to the southwest of the stable remain grass turfed. The applicant advises that the site is used for horsicultural purposes, namely for practicing carting skills with horses. However, the application does not seek planning permission for this use, only for the retention of the hardstanding.
- 4.2 The application forms state that the hardstanding was laid in November 2017.
- 4.3 The application follows an enforcement enquiry; other matters reported under that enforcement enquiry are either being dealt with under separate planning applications, listed below, or by other means.

5.0 RELEVANT PLANNING HISTORY

- 5.1 18/01732/APP – Retrospective application for the erection of a 1.8 metre high lapboard timber fence to north-west front boundary. – Pending at time of report, recommendation of refusal of planning permission.

5.2 18/01735/APP – Retrospective application for temporary permission for a period of five years to site and use a single touring caravan on the land limited to the period between and inclusive of April and September each year – Refused.

6.0 PARISH/TOWN COUNCIL COMMENTS

- 6.1 Oakley Parish Council object to the three retrospective applications at the site. They provided a letter covering all three of these applications which is appended to this report; the grounds for objection which specifically relate to the hardstanding application are:
- Loss of rural character, unacceptable upon the Area of Attractive Landscape – contrary to Policy RA8 or the AVDLP
 - Not suitable for the purpose of horsiculture – contrary to Policy GP77 of the AVDLP
 - Flood risk
 - Loss of agricultural land
 - The possibility of soil contamination
- 6.2 Brill Parish Council also object to the application. They provided a detailed response covering the three retrospective applications and other activities on the site, which is appended to this report. The grounds for objection in relation to the hardstand are:
- Drainage issues/flood risk posed to the highway and surrounding area
 - Harsh appearance, impacts on the character of the Area of Attractive Landscape – contrary to Policy RA8 of the AVDLP
 - Not suitable for the purpose of horsiculture – contrary to Policy GP77 of the AVDLP, C2 of the draft VALP.
- 6.3 They also wish to point out anomalies with the application, including that the hardstanding was laid in July 2017, not November as stated in the application forms.

7.0 CONSULTATION RESPONSES

- 7.1 Biodiversity – It is considered that there is not a reasonable likelihood of protected species being affected by this development – No Objections.
- 7.2 Highways Engineer – No Objections.
- 7.3 SuDs – No comments, the development does not fall within the criteria for consultation with BCC SuDs team.
- 7.4 BCC Highways – The enforcement team were in discussions with BCC Highways in respect of issues surrounding the flow of storm water onto the highway resulting from in-filling of drainage ditches. BCC Highways confirmed that following the applicant's reinstatement of the drainage ditches, they are satisfied that the issue is overcome.

8.0 REPRESENTATIONS

- 8.1 Three public representations objecting to the application were received. Whilst other matters were also raised, the material planning reasons for objecting are as follows:
- Flood risk
 - Loss of rural character and impact on the Area of Attractive Landscape
 - Site would not be suitable for the purpose of horsiculture

9.0 EVALUATION

Impact on the character and appearance of the area and surrounding Area of Attractive Landscape.

- 9.1 Policy GP35 of the AVDLP requires that new development should respect and compliment the physical characteristics of the site and surroundings, existing development in the locality and the natural and historic features of the site.
- 9.2 Policy RA8 of the AVDLP states that development proposals in Areas of Attractive Landscape should respect the character of the landscape.
- 9.3 The retrospective proposal seeks to regularise the covering of a section of the site with granular hard standing made up of asphalt scrapings. It is considered that the materials used would be acceptable for the purpose of the site, as asphalt scrapings are a commonly used surface for agricultural and equestrian tracks and hardstandings in rural areas. The area of hardstanding is relatively small and flat in an undulating wider landscape, such that the variations of surrounding ground levels prevent it being visible from distant vantage points, naturally mitigating any wider landscape impact. In regards to its relationship with the surrounding area and the Area of Attractive Landscape, the hardstanding would not be generally visible from the surrounding area. In the same respect it is considered that the hardstanding does not significantly harm the open rural character of the site.
- 9.4 Presently the hardstanding is further screened by the boundary fence. Although this is expected to be refused planning permission and its removal pursued, it is likely that an alternative means of enclosure to the site would be required, which would also adequately screen and mitigate the impact of the hardstanding in the immediate area. Whilst the scrub previously on the land has been cleared, it was not subject to protection through Tree Preservation Orders, and not within a Conservation Area.
- 9.5 Whilst it is accepted that the hard standing of this scale would not be visually pleasing, it is considered that it would not be overtly visually intrusive or result in any significant harm to the wider AAL, such that it would warrant refusal of planning permission and instigating enforcement action. As such it is considered that the proposal would comply with policies GP35 and RA8 of the AVDLP and the advice within the NPPF.

Assessment of the development against AVDLP policy GP77 (horse-related development).

- 9.6 Policy GP77 of the AVDLP states that when considering horse-related developments the LPA will have particular regard to:
- the effect on the character and appearance of the surrounding area;
 - the maintenance of the open nature and rural character of the land;
 - the impact on land of high agricultural or ecological value,
 - the fragmentation of farm units and the effect on the viability of farm units;
 - the suitability of the access and the adequacy of on-site parking and turning facilities;
 - the environmental effects of the development in terms of noise, smell or other disturbances; and
 - the suitability of the location, bearing in mind, in particular, the desirability of location away from busy roads and close to existing bridleways or lightly trafficked lanes.
- 9.7 Equivalent emerging policy under the draft VALP, "C2 Equestrian Development", as raised by Brill Parish Council states that when considering proposals for horse-related development the Council will have particular regard:

- to the site being suitable for the keeping of horses and capable of supporting the number of animals proposed, having taken account of the arrangements for site management;
- adequate provision made for the exercising of horses without causing harm to rights of way, other equestrian routes, or other areas such as open land, that will be used for exercise;
- Vehicular access to the site and the road network in the vicinity are capable of accommodating horse-related transport in a safe manner;
- The impact on land of high agricultural or ecological value, or the fragmentation of farm units and the effect on the viability of farm units;
- The environmental effects of the development in terms of noise, smell, light pollution or other disturbances;
- The cumulative impacts of equestrian developments in the locality on the character of the countryside, appearance of the surrounding area, maintenance of the open nature and rural character of the land or on highway safety; and
- The scale, construction and appearance of the proposed development including the entrance and boundary treatment should be designed to minimise adverse impact on the landscape character and residential amenity.

Due to the stage at which VALP is at, this policy only carries limited weight, and applications should continue to be assessed under policy GP77 of the AVDLP.

- 9.8 Policy GP77 is considered consistent with the NPPF in that it supports building a strong rural economy, promotes sustainable transport including highway safety, makes effective use of land, achieves well designed places, and conserves and enhances the natural environment. Paragraph 170 of the revised NPPF 2019 relates to conserving and enhancing the natural landscape, including valued landscape, such as AALs, sites of biodiversity or geological value and soils (commensurate with statutory status/quality identified in the development plan); recognising the intrinsic character and beauty of the countryside, minimising impacts/providing net gains for biodiversity; preventing unacceptable risk or levels of pollution; and remediating/mitigating derelict/contaminated and unstable land where appropriate.
- 9.9 There are no requirements under the current AVDLP policy GP77 for the Council to assess the suitability of the site for the occupation of horses. However, the land has historically, prior to the current ownership, been used for the keeping of at least one horse, over a number of years. The land is too small in scale for a horse to be solely grazed on the land; and therefore, this would have required the horse to be kept in a manner that was an equestrian/leisure use, with the majority of its food brought onto the site. It is therefore considered that it is not unreasonable that one or two horses could be kept on the site in a similar manner. There are personal responsibilities on the owner of horses to satisfy their welfare requirements, which would not be affected by the outcome of this planning application.
- 9.10 As discussed above, it is considered that the hardstanding does not have a significant detrimental impact on the character and appearance of the area, and the open nature and rural character is preserved. AVDC Ecology Officers were not concerned that this development was likely to affect protected species or habitats. Furthermore, the small area of land is not of good agricultural quality nor comprise of best and most versatile agricultural land and the hardstanding does not fragment a farm or compromise the viability of a farm.
- 9.11 AVDC Highways do not foresee highways issues arising from the provision of the hardstanding for the purposes stated in the application. There are a number of bridleways nearby; these are accessed via Brill Road heading north, and the B4011 running east-west to the south of the site. There are also lightly trafficked lanes in nearby Oakley.

- 9.12 The site is around 100m from the nearest dwellings, and it is not considered that development of this scale would result in unacceptable environmental effects in terms of noise, smell or other disturbances. Therefore, in addition to complying with this element of policy GP77, it also accords with AVDLP policy GP8 which seeks to protect residential amenity.
- 9.13 Therefore, given the very limited scale of the development and the historic use of the site, it is considered that the proposal would comply with policy GP77 of the AVDLP and the advice within the NPPF.

Drainage and Flood risk

- 9.14 The material used is considered to be of a porous nature and would not result in a flood risk with drainage channels running adjacent to the front and rear of the site. It is understood that as of October 2018, Bucks County Council Highways are satisfied with works that took place to reinstate roadside drainage.

Other matters

- 9.15 Brill Parish Council have raised the issue of conflict with policy NE3 River and Stream Corridors of the draft VALP which refers to protection of watercourses. For clarity, the highway ditch is not considered to be a watercourse to which this policy would refer. The nearest watercourse lies 240m to the southeast.
- 9.16 Policy RA2 of AVDLP seeks to protect settlement character by preventing coalescence of settlements and avoids reduction of open land that contributes to the form and character of rural settlements. The site lies around 100m from the outer fringe of Little London, Oakley and on the opposite side of the road; and over 1km from the southern edge of Brill, with only farmsteads between. By virtue of its detached nature and small scale it is not considered that this parcel of land particularly fulfils the intentions of policy RA2, and it is not considered a relevant policy. Nevertheless, it is not considered that the hardstanding significantly reduces the open character of the site.
- 9.17 Concern has been raised over possible soil contamination from the laying of the asphalt scrapings. As mentioned above, this is a widely used surfacing material within rural areas; and is not considered to represent a significant contamination risk.

Case Officer: Mrs Rebecca Jarratt

Telephone No:01296 585567



APPENDIX 1 OAKLEY PARISH COUNCIL

Parish Clerk: Mrs P Pointer
15 Ashfield Rise
Oakley
Aylesbury
Bucks
HP18 9QA

Telephone: 01844237067

Email: oakleyparishcouncil@yahoo.co.uk

Chairman: Mr. John Mole
3 Little London Green
OAKLEY
Aylesbury,
Bucks
HP18 9QL

The Paddocks, Land off Brill Road, Oakley, Bucks Oakley Parish Council Response to Planning Applications 18/01731/APP, 18/01732/APP and 18/01735/APP

Oakley Parish Council objects to the applications and wishes to comment as below. As a general, overarching comment, the Parish Council wishes to draw to officer's/member's attention that in its view the application site has not generally been used in the manner stated by the applicant (i.e. for the intermittent stabling of two horses and their training). Until the last few days (when seven horses have appeared) there has been no evidence of horses being stabled on site and the touring caravan stationed on the site has been there permanently since it was acquired by the applicant but, so far as we are aware, only used on a single occasion. The Parish Council has also received reports of the site being used for other activities such as the burning of materials brought onto site from elsewhere. As such, the Parish Council has seen no evidence of any need for this development in this location and has strong suspicions that these applications (one of which essentially seeks to establish a residential use on the site for 6 months of the year) are made with a view to establishing the principle/presence of built development in this location as a pre-cursor to future applications for permanent structures and uses.

It is accepted that the personal motives of any applicant are not generally a material consideration to be taken into account in determining planning applications. However, the precedent that may be set through the granting of a permission for certain types of development in a type of location (e.g. in the countryside outside of any settlement) can be a material consideration and it is the view of the Parish Council that to grant these permissions would create an unwelcome precedent that may be exploited by other applicants in the future and make it difficult for the Council to prevent the spread of unsuitable uses to rural locations.

The Parish Council believes that the site should be returned to its previous agricultural use or use as a grass paddock in its entirety.

18/01732/APP – Retrospective application for the erection of a 1.8m high lapboard timber fence to the north west front boundary

The Parish Council does not actually object in principle to the erection of a fence along the north west front boundary of the site and Brill Road and the fence that has been erected considered acceptable in visual terms. However, the Parish Council believes that the fence erected is (at the southern end in particular – see attached title plan which shows the red line boundary of the Paddocks) at least partially situated on the highway and questions whether it accurately reflects the boundary of the applicant's site. If the siting of the fence has incorporated part of the highway verges into the site, then the fence is both obstructing the highway and resulting in an effective "change of use" of highway land by incorporating it into the paddock. As such, the Parish Council requests that prior to any determination of this application, the boundary of the highway along Brill Road and the site boundary are checked carefully to ensure that no highway land has been lost.

18/01731 – Retrospective application for consent to cover part of site in granular hard surfacing using asphalt scrapings

The Parish Council objects to this retrospective application for the following reasons:

- The covering of the site in hard surfacing will result in permanent harm to the character and appearance of the landscape within an area which is designated as an Attractive Landscape Area (“AAL”) and will detract from the rural character of the land which will be changed permanently (as it will presumably be very difficult to return the land to agricultural use). This is contrary to Local Plan policies RA8, RA2 and GP77 as well as emerging local plan policies C2 and paragraph 109 of the NPPF;
- The development undertaken on site has already resulted in issues of local flooding and is causing flooding in the neighbouring field. It is understood that the applicant has tried to pipe the ditch between the site and Brill Road with an inadequate pipe, which has now been damaged and does not appear fit for purpose. As a result, during a downpour or sustained rainy period, water from the ditch flows into the Brill Road (on a bend at the foot of the hill). The Parish Council believes that the National Rivers Authority (or whoever has taken over from Thames Conservancy) need to review the flow along this ditch and the impacts of the development and associated piping. Also, to the east of the site the ditch appears to have been filled in, thus further exacerbating issues with drainage on adjacent land. Development which increases risk of flooding is not sustainable development and is contrary to paragraph 100 of the NPPF as well as again policy GP77 of the Local Plan and various policies of the emerging local plan as it results in negative environmental impacts;
- The size of the “training area” for the horses is very small and appears wholly inadequate for the purposes proposed contrary to the criterion of both existing (GP77) and emerging (C2) policies;
- The proposals will result in the loss of agricultural land;
- The Parish Council also has concerns about potential soil/ground contamination resulting from the use of “asphalt and chipping scrapings from road repairs” to provide the hard surfacing. This could be interpreted as an attempt to utilise materials from other commercial activities by depositing them on this rural site which again we regard as inappropriate and harmful in this rural location.

Consequently, the Parish Council believes the application to be clearly contrary to the development plan and material considerations also indicate strongly that it should be refused.

18/10735/APP – Retrospective application for a temporary permission for a period of 5 years to site and use a single touring caravan on the land limited to the period between and inclusive of April and September each year.

The Parish Council believes that the policy objections outlined above in relation to application 18/01731 apply equally to this application (and therefore asks that they again be taken into account) and objects to the application on the basis that the proposals are contrary to the development plan and all relevant material considerations further indicate that the application should be refused. As stated above, this application effectively seeks to introduce a “residential” use onto a site in the open countryside for 6 months of the year and to establish the presence of built development in a rural AAL thus harming the landscape and environment, creating negative amenity impacts for adjacent residents and landowners and creating a harmful precedent.

Regardless of whether it is accepted by the Council that the site could somehow be rendered (through means other than hard surfacing) appropriate for the keeping and training of a very small number of horses, there is no justification (and no proper evidence of need has been put forward) for the introduction of a residential (or even quasi residential) use or further built development in this inappropriate location.

The proposed use does not fall neatly into either category, but whether it is regarded as a “private or leisure” equestrian use or a “commercial” equestrian use the proposals clearly do not meet the relevant criteria of adopted policy GP77 or emerging policy C2 relating to equestrian development, nor, were the proposed use considered to be a commercial equestrian use do the proposals meet the criteria of emerging policy H3 for dwellings in rural areas which the supporting text to emerging policy C2 states will apply to proposals for dwellings related to commercial equestrian enterprises. The caravan is visible from both the highway and from surrounding properties and viewpoints and again will represent an incongruous and harmful feature in the landscape in an AAL.

Brill PC Comments 1

Land off Brill Road Oakley

Please find attached a response to application numbers 18/01735/APP, 18/01732/APP and 18/01731/APP.

The response is combined as all applications relate to one site.

This is a strong objection to all applications.

A detailed rationale is attached and summarized below in conjunction with the following guidelines.

1. The Town and Country Planning Act (General Permitted Development Order 1995) Schedule 2 PART 2 Class A : The erection , construction, maintenance, improvement or alteration of a gate , fence, wall or other means of enclosure.
2. Caravan Sites and Control of Development Act Part 1 Licensing of Caravan Sites 1960
3. NPPF: Achieving Sustainable Development
4. NPPF : Core Planning Principles
5. NPPF : Requiring Good Design
6. NPPF : Conserving and Enhancing the Natural Environment
7. VALP : H3 Rural Workers Dwellings
8. VALP : C2 Equestrian Development
9. VALP : BE3 Protection of the Amenity of Residents
10. VALP : NE5 Landscape Character and locally important landscape
11. VALP : NE9 Trees, hedgerows and woodlands
12. VALP : NE3 River and stream corridors
13. NVZ (Nitrate Vulnerable Zone) Legislation.
14. Defra Code of Practise for the Welfare of Horses, Ponies, Donkeys and their Hybrids (December 2017)

Please find below a detailed response to the following planning applications submitted by Mr Ambrose Smith to AVDC on the 14th May 2018 all of which pertain to land off the Brill Road in Oakley, Bucks named The Paddocks by Mr Smith.

1. 18/01753/APP : Temporary permission to site and use a single touring caravan on the land limited to the period between and inclusive of April and September each year . It should also be noted that a request to install a permanent Klargester on the site is included as part of this application.
2. 18/01732/APP: Erection of a 1.8 metre high lapboard timber fence to north west front boundary. It should be noted that the location of this fence contravenes The Town and Country Planning Act (General Permitted Development Order 1995) Schedule 2 PART 2 Class A.
3. 18/01731/APP : Consent to cover part of site in granular hard surfacing using asphalt scrapings. It should be noted that the area covered by hard surfacing comprises two

thirds of the total site. The remainder of the site comprises tree stumps, concrete slab and scrub vegetation/weeds.

Anomalies and Inaccuracies on Application Forms

It should be noted that all three applications are retrospective for works or use already carried out or enjoyed by Mr Smith without the benefit of planning permission. The application forms assert that the works were in place from November 2017 but in fact the caravan has been in place since September 2016, the fence was erected in May 2017 and the hard core deposited on the site in July 2017.

The pre application advice referenced 16/00340/CON3 was in fact an Enforcement Inspection carried out in September 2016. The outcome of the inspection was that Mr Smith should apply for retrospective planning permission – it has taken him 19 months to do so.

Mr Smith is neither resident in, nor local to the villages of Brill or Oakley and his connection to the area is unknown. The address supplied on the planning applications does not include a house name or number and only a partial postcode is given. The address as stated locates to a yard in Slough where both skip hire and the disposal and recycling of waste is carried out. A prominent company name is MJS Recycling. Mr Smiths connection to this yard or company is unclear but online reviews for MJS Recycling are less than complimentary.

The postcode supplied for the land in question pertains to an address in Thetford and is included on all three applications. It is unclear as to why this postcode has been associated with the site and an explanation would be helpful.

The existing use of the site is described as “ Site with stables and intermittent use by two horses “ This is misleading. The site is currently occupied by a ramshackle but prominent structure that is visible from both road and surrounding footpaths and is crudely constructed from tin sheeting. A touring caravan and portable toilet are positioned on the roadside boundary. A single, juvenile pony has once been seen on the site for a period of less than a week during of Mr Smith’s ownership.

The site is visited frequently in order to dump and burn green waste. Several different pick up trucks and vans, some bearing the signage “Home Improvements,” are used as transport. It is unknown whether the vehicles are driven solely by Mr Smith or by others associated with him. Dates when fires have been witnessed and can be sourced.

Mr. Smith neither mentions this activity in the applications nor provides any information as to whether he proposes to continue to dispose of green waste on the site. Industrial or commercial processes require planning consent. Mr Smith has previously denied that such activity is taking place and has reassured Planning Enforcement that any burning will cease. This has not been the case – in fact the fires have become increasingly frequent. It would, therefore be reasonable to secure a thorough understanding of Mr Smiths future intentions and to impose conditions preventing any waste disposal activity.

Mr Smith has been seen to stay overnight on two occasions since acquiring the site. This occurred in July 2017 and again in May 2018.

The application forms state that the site is not located within 20 metres of a watercourse (river, stream or beck) It should, however, be noted that the site is, in fact the culmination point of two ditches running down the field and road side boundaries of the site. These form major outlets for water run off from Brill Hill and the surrounding farmland. The water load is heavy. Before Mr Smiths arrival these ditches were open and even then barely coped with the volume of water, with run off onto the road being a significant problem during the winter months.

In October 2016 the ditches were culverted by Mr Smith presumably to expand the area of what is a very small sliver of land. The pipe used, however is just 4 or 5 inches in diameter and is significantly undersized to cope with the water flow. This has severely exacerbated an existing problem with surface water and is in complete conflict with policies concerning the culverting of watercourses. The land of both neighbouring properties as well as the main road are severely affected– this is now an issue throughout the summer as well as winter.

The applications also state that there are no trees or hedges on the proposed development site or on the land adjacent. In fact, there is a native hedge on the roadside frontage of the site – only half this hedge remains as the other, admittedly of less substance, was removed by Mr Smith and replaced by a timber close board fence, which is domestic in character. Mr Smith has also removed the substantial native hedge on the northeast boundary. This has been replanted by the landowner with a mix of native species that is currently in its second year of growth. The establishment of this hedge has been compromised by the surface water, which now gathers on the site following the poor quality drainage work carried out by Mr Smith

Mr Smith has not signed the Ownership Certificate and Agricultural Land Declaration on the application form. The signature for the agent has been redacted, but it is understood that the transfer of ownership from the previous incumbent was less than amicable and it would perhaps be prudent to secure reassurance as to title.

It is understood that ownership of this site was transferred to Mr Smith in or around September 2016.

Since taking possession, the following works have been carried out and have been reported to Planning Enforcement by Oakley and Brill Parish Council on several occasions.

1. Clearance of the site using digger and dumper : grass scraped back and removal of hedges and trees from the site itself as well as the boundaries between the road and neighbouring properties. In effect, this removed vegetation that provided both wildlife habitat and effective screening to the tin shack and caravan both of which are now visible. The photographs appended to the application are misleading as they do not show the tin shack and the poor reproduction has disguised the fact that the white roof of the caravan is visible from the road and through the hedge.

2. Installation of a 1.8 m high close board fence replacing the hedgerow. The fence has been erected on the outside of the previous hedge line pushing the perimeter of the site much closer to the road and widening it beyond the original boundary.
Given its height, this contravenes planning regulations. Mr Smith has been asked by Planning Enforcement to address this issues but he has refrained from doing so.
Mr Smith has painted the fence green and planted small laurel and variegated whips at wide intervals along the fence line as an attempt to mitigate its impact. However, the laurel whips are now overgrown with weeds and are poorly maintained. Some have already perished and it is highly unlikely that many will survive without consistent maintenance. Even if the survival rate exceeds expectations the hedge will take years to grow to an effective height.
The proximity of the fence to the road also means that the little that is left of the verge will be impossible to mow or maintain and will no longer provide the refuge that roadside margins are designed to offer. This will be much worse should the hedge survive to maturity.
It should also be noted that close board fences are domestic in character and the laurel is neither indigenous nor native and ,is again, residential in character – both are incongruous to the appearance of an AAL.
3. Removal of Highways hazard bollards and replacement with sawn off steel RSJ's which paid scant regard to safety regulations – the RSJs were installed after the fence had been constructed presumably as a precaution against accident as the site is located on a curve in the road and the proximity of the new fence to the road is now a considerable risk. The
RSJs remained in situ for some weeks until Highways England insisted that they were removed and the original, approved safety bollards reinstated.
4. Widening and relocation of entrance gates much closer to the road –whilst the new entrance way is described as improved it is difficult to ascertain in what way. The original entrance had been well set back from the road enabling a vehicle, and trailer, to pull off the highway in safety whilst unlocking the gates to enter – this is no longer possible. The relocation of the gates has further extended the curtilage of the plot beyond original boundaries. The entrance is decorated with signage, an entrance bell and a post box all of which result in a residential appearance. The timber is two tone between concrete posts. The effect is unsightly, domestic in nature and again inappropriate to the character of the open countryside and AAL
5. Culverting of ditches. This site lies at the bottom of a hill and is bordered by two drainage ditches. There is already a significant problem with water run off and the road is badly affected on an annual basis. Mr Smith has used pipe of an extremely small diameter. This does not cope with the volume of water running down the hill and has exacerbated an already significant problem on the road. In addition water is now also leaching back and collecting in pools on the land of both neighbouring properties causing significant nuisance.
6. Installation of caravan and portable toilet without a license having been granted. Both have been in situ for almost two years and no license has been applied for or

granted. They are hardly used by Mr Smith but are highly prominent from both the road and the footpaths nearby, this is an inappropriate use of the open countryside and detrimental to the character of this AAL.

7. Permanent location of a green waste bin, post box and door bell outside entrance gates. It is unclear as to why Mr Smith has need for a bin, post box or bell as this is not a residential site and he does not appear to be contributing to Council Tax. He stays overnight on rare occasion. The permanent location of the bin outside the property is an eyesore, has an impact on the amenity of local residents and is inappropriate in an AAL. No other bins are present outside houses in either Brill or Oakley other than during periods of waste collection.
8. Several truckloads of hardcore have now been deposited on the site covering approximately two thirds of the total area. The once green space is now predominantly black and the raising of the ground level is contributing further to the issue of surface water, which pools on both Mr Smiths land and that of his neighbours. This is now also a problem during the dryer months as well as the wet. More hardcore was recently brought in – if this activity continues this plot will essentially become a raised island increasing its prominence and worsening drainage issues.
9. Burning of waste. Truckloads of green waste has been repeatedly brought in and burned on site. The amount of waste and number of fires far exceeds that which could be justified by the maintenance of the site itself and appears to be commercial in nature. The nuisance caused by the fires varies according to wind direction but usually results in visibility being reduced on the road and some nuisance being caused to neighbours. The frequency of the fires is increasing as the summer months progress

Response to Design and Access Statements

Mr Smith proposes to graze and train two ponies, site a caravan and install a Klargestep Septic tank on the site. He asserts that this usage will take place for 6 months on an intermittent and annual basis.

This is a very small site, even with the extra ground gained by Mr Smith it is not fit for the purpose proposed.

The Design and Access Statements describe the site as a small meadow. The definition of meadow is a “*tract of grassland.*” The definition of tract is “*an area of land, typically a large one.*” This site is not large and is no longer grassland.

The total area quoted on the application form is 0.077 hectares – this is less than a quarter of an acre and includes the additional footage gained by Mr Smith due to the relocation of the roadside boundary and the repositioning of the entrance gates Two thirds of the site are

now covered in hard core and what is left comprises two concrete slabs and a small area of scrubland and weeds.

The Statement fails to highlight that this site is also located in an area of attractive landscape (AAL) and is in a nitrate vulnerable zone

This site is, in fact, not a small meadow but an annexed roadside verge that has been divested of much its greenery and domesticated with a very poor attempt at mitigation. Policy NE5 in the VALP is clear that development that adversely affects the character of the AAL will not be tolerated.

There are many such verges in this locality and they are features somewhat characteristic to the area. However these spaces remain green, are bordered with native hedgerow not fences and are non-domestic in character. If development such as that proposed by Mr Smith is allowed to proliferate the character of both the AAL and locality will suffer substantial harm and an unwelcome and dangerous precedent set.

The Design and Access statements assert that there is a stable unit located on the site. This structure should be more accurately described as a three sided, tin shack on an earth floor. It is unsightly and extremely prominent in the landscape The removal of the hedges and trees has increased its prominence. It cannot be described as a stable block and is at best a ramshackle shelter.

Mr Smiths stated intention is that he wishes to keep and train two ponies during the months of April to September in order to facilitate his activities with pony and trap.

Mr Smith provides no information verifying his demonstration activities and it is unclear what he means by “ demonstrates and competes at pony and trap events around the countryside“ as the profile of any such events in the area are apparently low profile as they are not known locally. He states that he will be attending various summer carnivals, agricultural shows and competitions but does not explain where or when these events take place. The ponies have been presumably located elsewhere for the past 18 months and Mr Smith has not indicated as to why this location is now pivotal to his activities.

This site is not suitable for the keeping of horses according to the criteria specified in policy C2 of the VALP. The policy requires that any land associated with equestrian development be inherently suitable for the keeping of horses. It should not be wet or boggy, provide for adequate storage and disposal of manure and be managed so as to avoid the infestation of poisonous weeds. Exercise areas should be separate from where the horses are kept or grazed and, where exercise is proposed off site, bridleways should be safely accessible from the proposed development. Where there is likely to be a need for the use of public roads the Council will have regard to any highway safety issues.

Vehicular access to any site where horses are kept is required to be capable of safely accommodating towed horseboxes or horse carrying lorries or other large vehicles with limited maneuverability. The newly located access will no longer allow such vehicles to pull

off the road safely whilst gates are being unlocked and the turning and maneuverability of such vehicles on the site is severely limited due to its small size.

It should also be noted that Policy C2 of the VALP also requires that any building such as field shelter or other structure associated with the keeping of horses is likely to require planning permission and should conform to the AVDC Design Guide for New Buildings in the Countryside – whilst the shack has apparently been in existence for some time it has only recently become visible due to the hedge clearance by Mr Smith and it is now clear that it is in clear contravention of this requirement.

Policy C2 clearly states that any applications for dwellings associated with equestrian use be it commercial or leisure will be determined in accordance with policy H3 of the VALP concerning Rural Workers Dwellings. Mr Smith's retrospective application for temporary permission to site and use a single touring caravan on the land does not meet the special circumstances deemed as essential to permit such a dwelling in either the NPPF or the VALP. In addition the height of the van is not less than the hedge as stated in the application and it is clearly visible from both the road and surrounding footpaths, negatively impacting the AAL.

In order to permit such a dwelling an applicant would need to provide functional and financial justification with clear evidence that the functional need could not be fulfilled in any other way - this has not been submitted by Mr Smith and should be required before any proper consideration of the application.

Policy also states that permission will not normally give temporary permission in a location where a permanent dwelling will not be permitted – if permission for a permanent dwelling is subsequently sought, the merits of the proposal will be assessed against the criteria in the policy relating to permanent occupational dwellings in the countryside.

It is clear that should Mr Smith apply for a permanent dwelling the location of the site in open countryside and AAL would be prohibitive. Given this, plus the significant harm the caravan and portable toilet are currently inflicting, any permission for a temporary dwelling should be resisted.

The installation of a Klargestar sewage plant has been included as part of his application. It is unclear as to why this is necessary. This application is for intermittent, temporary use. The installation of a Klargestar would be very permanent. Many highly viable solutions exist to deal with temporary sanitation. The installation of a sewage treatment plant seems excessive and inappropriate unless the intention is to make a future application for a permanent dwelling for which approval is highly unlikely.

Details of the fence erected by Mr Smith have been provided above. To recap, the principle issues concern the fact that it does not conform to planning regulations concerning height and proximity to the roadside resulting in both maintenance and safety issues, the domestic appearance of the fence and consequent discord with the local area and the impact on the AAL.

In his Design and Access Statement Mr Smith asserts that the fence has been erected to ensure the safety of the horses. He states that it has been painted green to harmonise with the location and that the mitigating, hedgerow planting will in a short time soften its appearance to match the organic nature of the open countryside.

In fact, the new planting is of laurel and variegated whips rather than hedgerow species and is being extremely poorly maintained and not at all in harmony with the surroundings.

A simple post and rail fence set behind the line of the original hedge to allow a native species hedgerow to be replanted would have been significantly more appropriate with the AAL. As the site is not suitable for the keeping of horses and the field side boundary is already stock proof, it is somewhat questionable as to why a fence is necessary at all, an indigenous hedge would be far more appropriate to the AAL as well as providing significant benefit to both wildlife and the environment.

The fence should be relocated to an approved distance from the road ie behind the line of the original hedge and to reduce its impact by planting and maintaining a native species hedge in front of it which is keeping with the local vernacular.

Mr Smith justifies the relocation of the entrance and associated fencing as a deterrent to tipping. It should be understood that there has never been a problem with tipping at this site in the past and it is unclear as to why the new entrance is any less vulnerable than the previous.

Mr Smith has, without planning permission, lain what was once a green space down to hard surface. Two thirds of the site is now covered with asphalt scrapings. The appearance is harsh and habitat has been lost. The space is not big enough to warrant cart practicing skills and it is unclear as to why hard standing is required for temporary, intermittent siting of a touring caravan. Many such caravans are seen during the summer using grass verges or other green spaces without functional issue.

The raising of the ground level and culverting of the ditches has done little to mitigate the serious problems on the site with surface water. In fact a further load of hardcore has recently been brought in spite of the pending, retrospective application.

Policy NE3 of the VALP makes it clear that development proposals must not have an adverse effect on the functions and setting of any watercourse and its associated corridor, and that permission will only be granted for proposals that do not involve the culverting of watercourses. This policy is designed to protect the natural landscape.

Mr Smith has shown no regard for the special significance of the AAL in which this site is located. He has replaced grass with asphalt scrapings, removed hedges and trees, culverted ditches and repeatedly used the site for the burning of waste. Granting retrospective planning permission would be to risk further damage to an area of great local importance and character.

Supporting Photography

1. Tin shack described as stabling



2. Hedge replaced with fence eroding roadside verge May 2017. Note hedge at outer edge of remaining hedge leaving no space for mitigating planting.



1. RSJ's replacing safety bollards



2. Culverting with inadequate pipe



3. Consequent water logging – taken 26th May 2018



4. Ditches May 2017 post culverting



5. Concrete plinths in area now designated for the keeping of ponies reducing further inhibiting potential grazing.



6. Showing all wood and hedgerow cleared and burned April/May 2017– all subsequent fires from imported waste



7. View of caravan from Oakley end of Brill Road – fence mitigated by dense, seasonal verge side grass growth.



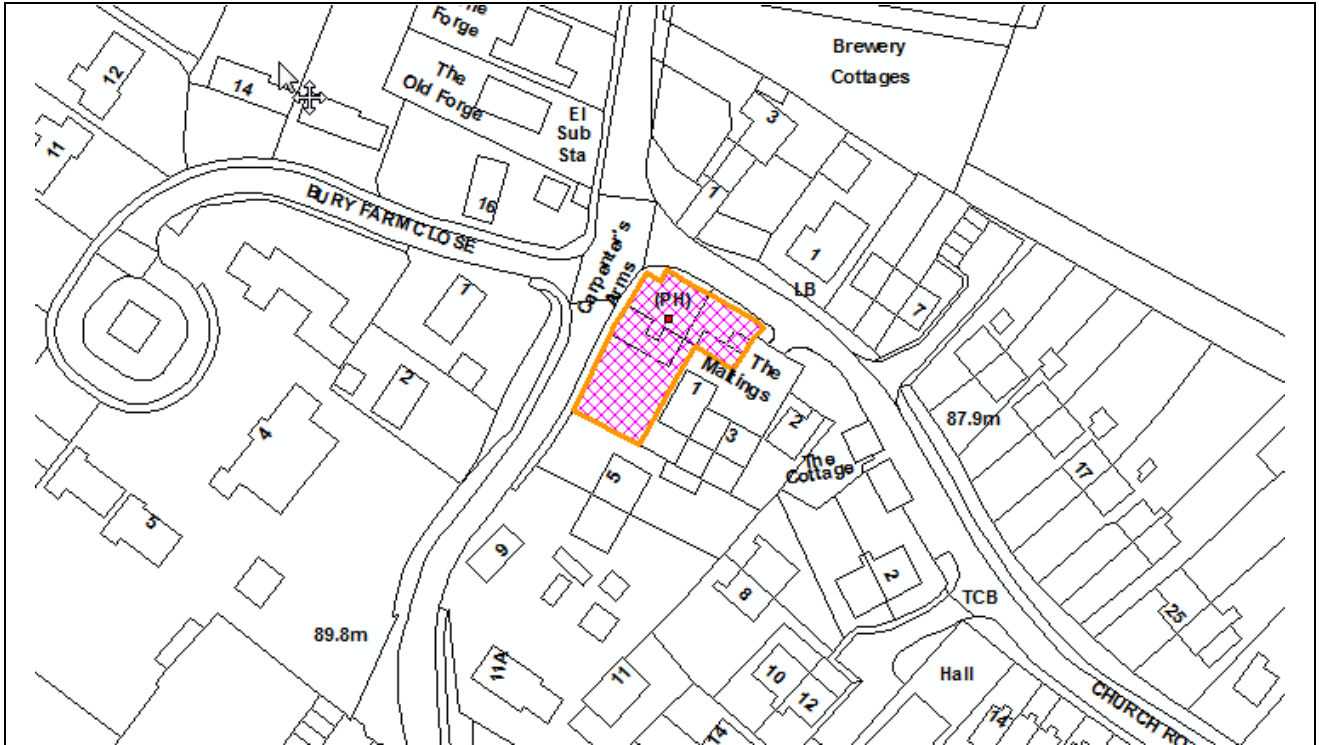
11. View from footpath to Little London – taken on hazy day



12. View from B4011 Thame to Oakley Road



18/03976/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/03976/APP	Newton Longville	07/11/18
PROPOSED CHANGE OF USE OF PUBLIC HOUSE (CLASS A4) TO SINGLE RESIDENTIAL DWELLING (CLASS C3).	The Local Member(s) for this area is/are: - Councillor Peter Cooper	
CARPENTERS ARMS PUBLIC HOUSE, HORTON ROAD, LU7 9DB		
MR ALAN DUGARD		
STREET ATLAS PAGE NO.91		

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, having regard to national and local policies, the proposed change of use from a public house (Class A4) to a dwellinghouse (Class C3) would be acceptable on the basis of whether the continued use of the public house is viable

c) Whether the proposal would constitute a sustainable form of development.

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

d) Impact on residential amenities

The recommendation is that permission be **GRANTED**, subject to conditions

CONCLUSION AND RECOMMENDATION

- 1.1 The application has been evaluated against the extant Development Plan (the Slapton Parish Neighbourhood Plan and the Aylesbury Vale District Local Plan) and the NPPF (February 2019) and the report has assessed the application against the planning principles of the NPPF and whether the proposals deliver sustainable development. In this instance, there is an extant Development Plan and so paragraph 11(d) of the NPPF is not engaged. Furthermore, paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 1.2 The proposal for a change of use from a public house to a residential dwelling has been assessed against policies GP.32 and GP.93 of the AVDLP which seek to resist the loss of local services and facilities, including public houses, where there is a demonstrable need for such local facilities/services.
- 1.3 The local planning authority (LPA) previously refused a planning application at this site (ref: 18/00426/APP) for the same type of development as a result of a tenant occupying the premises and doubts as to the unviability of the public house within that use class. Since that application was determined, the tenant has now vacated the premises and although giving the required three months notice to the landlord (applicant), left almost a month early. The tenant has confirmed that the condition of the building together with the 'takings' which declined in the three months leading up to November 2018, were the reason why the tenancy was terminated.
- 1.4 Notwithstanding the previously refused application at this site, it is now considered, having weighed all material considerations, that the public house is not viable, which has been demonstrated by the most recent occupation of the public house. It is considered that there is now a demonstrable argument put forward by the applicant that the pub is not viable which is supported by an independent appraisal (by the District Valuer). Further consideration has been given to the interests of securing the long-term future of the grade II listed building and the proposal is therefore considered to comply with policies GP.32 and GP.93 of the AVDLP. In accordance with paragraph 11(c) of the NPPF it is concluded that the proposal would accord with an up-to-date development plan and should therefore be approved.
- 1.5 Furthermore, it is accepted that the development would make a contribution to the housing

land supply albeit it is tempered due to the scale of development that is proposed and in the context that the Authority can demonstrate a 5 years housing supply. There would also be economic benefits in terms of the construction of the development itself, although this would likely require a further application.

- 1.6 Additional potential benefits from the scheme include a reduction in hard-landscaping and parking and the proposed change of use would also likely result in a significant reduction in vehicular trips to and from the site. It could also be argued that the change of use would secure the long-term upkeep and maintenance of the grade II listed building.
- 1.7 Compliance with some of the other planning principles of the NPPF have been demonstrated in terms of impact to biodiversity, flood risk and impact upon telecommunications. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm and therefore have a neutral impact.
- 1.8 Turning to the adverse matters, the proposal would result in the loss of a local facility and Slapton is recognised as a 'smaller village' within the Council's Settlement Hierarchy. The loss of one of the key facilities would therefore have a demonstrable impact upon Slapton in 'sustainability' terms. However this harm needs to be weighed against the potential benefits of the scheme which have been set out in this report.
- 1.9 It is therefore recommended that the application be **GRANTED** subject to the following conditions:-

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

Reason: To comply with the requirements of Section 91(1) of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No development shall take place on the building(s) hereby permitted until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; where relevant. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and for soft landscaping, within the first planting season following the

first occupation of the development or the completion of the development whichever is the sooner.

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

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

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

4. No windows other than those shown on the approved drawing No. BP/P079/1017/06 shall be inserted in the building hereby permitted.

Reason: To preserve the amenities of the occupants of the adjacent dwellings and to preserve the character and appearance of the grade II listed building and to comply with policy GP8 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

5. The existing signage attached to the building shall be retained in situ and shall not otherwise be altered or re-sited without prior agreement in writing of the local planning authority.

Reason: To preserve the character and appearance of the listed building and to comply with the National Planning Policy Framework.

INFORMATIVE(S):

1. The applicant or any future owner should be aware that whilst planning permission has been granted, listed building consent has not been applied for. Any occupation of the building and resultant conversion works required, will be subject to an application for listed building consent and may also require a further application for planning permission, depending on the scale of works required for conversion.
2. In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, Aylesbury Vale District Council (AVDC) takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. AVDC works with applicants/agents in a positive and proactive manner by offering a pre-application advice service and updating

applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions. In this case, the details as submitted were found to be acceptable and so the application has been recommended for approval.

2.0 **INTRODUCTION**

2.1 The application has been brought to the development management committee as Slapton Parish Council have objected to the proposal and have said that they will speak.

2.2 The Parish Council objects to the proposal as it does not accord with the Slapton Neighbourhood Plan, the parish community strongly supports the retention of the Carpenters Arms as a public house and because there has been no material change since the previous application 18/00426/APP.

2.3 Councillor Peter Cooper supports the comments made by the Parish Council and has also stated that it is clear a negative situation has been engineered which has forced the tenant to move business to Stoke Hammond. During the tenants short stay in Slapton, the tenants business was popular and well supported, but the limitations described in the Parish Council report made it impossible for the business to survive. Councillor Cooper will speak at the committee meeting.

2.4 Local planning authority response to the call-in:

The concerns raised by the Local Member, the Parish Council and the local residents of Slapton have been carefully considered, however it should be noted that the LPA as the 'decision-taker' can only consider the relevant planning merits of the application. Having considered the previous planning application at this site, engaging with the previous tenant of the premises and having regard for the report from the DVS, it is considered that on balance, the support for the public house in terms of turnover/income is not of a sufficient volume that a business could reasonably succeed in this location. In light of this and in the interests of securing the long-term future of the grade II listed building, it is recommended that the application be approved.

3.0 **SITE LOCATION AND DESCRIPTION**

3.1 The application site lies at the centre of the Slapton Settlement (as outlined in the Slapton Neighbourhood Plan Policies Map), on a corner plot fronting Horton Road to the south and Church Road to the east. To the north lies Mill Road and to the west lies Bury Farm Close.

3.2 The Carpenters Arms provides a central bar area plus a dining area with 38 covers. In addition there is a snug bar area to the rear and a trade kitchen, a small garden to the side and parking for 12 cars. The upper floor provides ancillary residential accommodation comprising a 2-bed flat.

3.3 The Carpenters Arms and the adjacent Maltings are both Grade II Listed.

3.4 The Historic England Listing Description is as follows:

“Public house. C17, altered. First floor has timber frame with brick infill, ground floor rebuilt early C19 in red and vitreous brick. Thatched roof, half-hipped to left, hipped to right over single storey extension. Central rebuilt brick chimney. 2 storeys, 2 original bays. Left bay has 3-light barred horizontal-sliding sash to ground floor. Right bay has paired barred wooden casements and gabled C20 porch projection to right. Another C20 door to centre. Extension to right has paired similar casement. Gable to road has 2-light barred horizontal-sliding sash to first floor, canted oriel window below, and angled lean-to to left with door and barred window. Small later wing to rear forming T-plan, has slighter timber frame and tiled roof. First floor of older bays was probably once jettied.”

Date first listed: 26-Sep-1951

3.5 The Slapton Parish Neighbourhood Plan states in paragraph 2.13 that the Carpenters Arms dates back to the 16th Century and is the oldest and most picturesque building in the village, second only to the church. It is described in the SPNP by its thatched roof over a timber frame filled with red brick.

4.0 **PROPOSAL**

4.1 This application seeks full planning permission for the change of use of the Carpenters Arms Public House (Class A4) to a dwellinghouse (Class C3). The submitted documents indicate that the public house is no longer viable under a Class A4 use. The applicant therefore proposes that a change of use would allow the Listed Building to be retained in perpetuity in an adequate state of repair.

4.2 The merits of the proposal and the assessment of the building’s viability are deliberated below in this report.

5.0 **RELEVANT PLANNING HISTORY**

5.1 84/01674/AV - Retention of additional car park and boules court - Approved

5.2 93/00748/APP - Conversion of Maltings to living accommodation and extension of public house to form W.C. – Approved

5.3 93/01203/ALB – Alterations and extension - Approved

5.4 93/01211/ALB - Conversion of the Maltings into shop and living accommodation – Approved

5.5 93/01344/ALB - Demolition of toilet block to the Maltings and part demolition of highway boundary wall – Approved

- 5.6 98/00148/APP - Conversion of the Maltings into bed & breakfast accommodation – Refused
- 5.7 98/00149/ALB - Conversion of the Maltings to bed & breakfast accommodation – Listed Building Consent Granted
- 5.8 98/01703/APP - Conversion of Maltings to living accommodation & retail use & extension to public house to form W.C. (renewal of 93/0748/app) – Approved
- 5.9 18/00426/APP - Change of use of public house (Class A4) to single residential dwelling (C3) - Refused

6.0 PARISH/TOWN COUNCIL COMMENTS

- 6.1 The Parish Council objects to the proposal as it does not accord with the Slapton Neighbourhood Plan, the parish community strongly supports the retention of the Carpenters Arms as a public house and because there has been no material change since the previous application 18/00426/APP.
- 6.2 The Parish Council have stated that they will speak at the planning committee meeting.

7.0 CONSULTATION RESPONSES

- 7.1 Bucks CC Highway Engineer (summary):

“A change of use from a public house to a residential dwelling would be likely to result in fewer daily vehicle movements, resulting in a decrease in pressure on the highway network.”

- 7.2 AVDC Heritage Officer (summary):

“With the signage retained, this application is considered to preserve the special architectural features of the listed building. However, a key element of the buildings historic interest is its use as a public house. This element will clearly be harmed by the proposed change of use and therefore the viable use of the listed building as a public house needs careful consideration.”

- 7.3 Buckingham and River Ouzel Drainage Board – No comments to make.

- 7.4 District Valuation Service (DVS) (summary) –

“It is a marginal decision but on balance, with the information available, the DVS does not disagree with the view that The Carpenters Arms is not viable as a public house, primarily due to the physical limitations of the property and direct competition in the surrounding area.”

8.0 REPRESENTATIONS

- 8.1 Comments have been received from 32 separate persons objecting to the proposal on the following grounds (as summarised):

- Historic importance of the pub in Slapton
- The loss of the pub would result in a loss of local amenity
- Loss of the pub would lessen the quality of village life in Slapton
- Previous tenant was not given the opportunity to make the pub a success
- Slapton has already lost a shop, school and post office, this would result in the loss of another village asset
- The pub adds to the character of the village
- No need for more houses in Slapton
- One of the limited meeting places for the community
- Concerns as to whether the listed building would be suitable as a dwelling
- The most recent tenant managed to create a busy pub, so why should it close?
- The pub could be a success under the right management
- The Slapton Neighbourhood Plan has provision for new housing, as the village grows, the pub must be preserved to maintain the community, cohesion and character of the village
- Bury Farm Equestrian Centre is not an appropriate alternative as it is only licensed for those attending quine events, not the general public
- The Stag in Mentmore is closed down

9.0 EVALUATION

a) The planning policy position and the principle of conversion for residential use.

9.1 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.

The Development Plan

Neighbourhood Plan

9.2 In this respect, Slapton has a 'made' neighbourhood plan, adopted on the 17th July 2018. The relevant policies contained within the SPNP relevant to this application include SLP1 and SLP6. Paragraphs 1.27-1.29 of the accompanying overview report sets out the importance and purpose of neighbourhood planning.

9.3 Paragraph 1.2 of the 'made' Slapton Parish Neighbourhood Plan (SPNP) states that the purpose of the neighbourhood plan is to identify potential land for development and make planning policies that can be used by the District Council in the determination of planning

applications in the local area until March 2033. These policies are aimed at managing development in and around the village and across the wider Parish in the most sustainable way by protecting its rural character and encouraging proposals that will benefit the local community.

- 9.4 Chapter 5 of the SPNP outlines the vision of the Neighbourhood Plan and states that the plan will ensure that Slapton parish retains its sense of community by carefully managing change within its boundaries, by creating opportunities for employment growth which are appropriate, in scale, design and type, for this rural location; by ensuring its diverse mix of housing is preserved and by protecting its setting and surrounding countryside from anything that harms the distinctive rural character, distinctive rural character, distinctive architecture and environmental heritage.
- 9.5 Policy SLP1 of the SPNP identifies a spatial plan for the parish and outlines the Slapton settlement boundary on the proposals map. This policy states that infill development within the settlement boundary will be supported provided they accord with the design and development management policies of the neighbourhood plan. In defining the Slapton Settlement Boundary, policy SLP1 supersedes policies RA.3, RA.13 and RA.14 of the AVDLP.
- 9.6 The proposed application site falls within the Slapton settlement boundary and whilst the proposal does not comprise of an 'infill' development, the Neighbourhood Plan policy does not explicitly oppose changes of use within the settlement boundary. This is subject to other policies within the SPNP and the supporting documents such as the Slapton character appraisal.

Aylesbury Vale District Local Plan

- 9.7 The policy position and current housing land supply figures are addressed with the overview report that is to be read in conjunction with this Committee Report. What is of relevance however is that, given the status of policies and relevance of the Neighbourhood Plan, a weighted balance approach is not appropriate in this instance. This is the same approach taken in the previously refused application whereby policy GP.32 was considered to be up-to-date and in conformity with the NPPF and the application was found unacceptable in that instance.
- 9.8 A number of general policies of the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of relevance are GP.8, GP.24, GP32, GP.35, GP38 – GP.40 and GP93.

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

9.9 The Council has set out proposed policies and land allocations in the draft Vale of Aylesbury Local Plan. The draft Vale of Aylesbury Local Plan was published and subject to public consultation in summer 2016. Following consideration of the consultation responses, and further work undertaken changes have been made to the draft plan. A report has been considered by the VALP Scrutiny Committee on 26 September and Cabinet on 10 October 2017 on the proposed submission plan. The Cabinet's recommendations were considered by Council on 18 October 2017. The proposed submission was the subject of consultation from, 2 November to 14 December 2017. Following this, the responses have been submitted along with the Plan and supporting documents for examination by an independent planning inspector at the end of February 2018. The examination hearing ran from Tuesday 10 July 2018 to Friday 20 July 2018. The Interim Findings have been set out by the Inspector, and consultation on modifications will be required before adoption can take place. The adoption of the Vale of Aylesbury Local Plan is planned to be in 2019.

9.10 Whilst the VALP hearing has taken place there are a number of unresolved objections to the housing strategy and other policies. Paragraph 48 of the NPPF advises on the weight to emerging plans depending on the stage of preparation, unresolved objections and consistency with the NPPF. In view of this the policies in this document can only be given limited weight in planning decisions, however the evidence that sits behind it can be given weight. Of particular relevance are the Settlement Hierarchy Assessment (September 2017). The Housing and Economic Land Availability Assessment (HELAA) (January 2017) is an important evidence source to inform Plan-making, but does not in itself determine whether a site should be allocated for housing or economic development or whether planning permission should be granted. These form part of the evidence base to the draft VALP presenting a strategic picture.

Housing supply

9.11 How the local planning authority is complying with the Government's objective of significantly boosting the supply of homes has been set out in the accompanying overview report which should be read in conjunction with this report. Importantly, work is ongoing towards calculating the LPA's housing land supply, but early indications are that the Council maintains over 5 years supply.

b) Whether, having regard to national and local policies, the proposed change of use from a public house (Class A4) to a dwellinghouse (Class C3) would be acceptable on the basis of whether the continued use of the public house is viable.

9.12 The SPNP as a whole makes reference to the application site and the importance of the public house and its contribution to the character and appearance of the village, given its

aesthetic and prominent location at the heart of the village. However, the policies within the SPNP do not preclude a change of use, subject to other policies in the SPNP, including SLP6 (Slapton Character Area 5). Thus, the Neighbourhood Plan is silent in terms of the principle for the change of use of the building. The assessment therefore focuses on the policies of the AVDLP and the extent to which these are complied with in determining the acceptability of the proposals.

- 9.13 Saved Policy GP.32 of the AVDLP states that the Council will resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. Where permission includes building conversions, conditions will be imposed so as not to exclude later resumption of the existing use.
- 9.14 The sub-text for this policy in paragraph 4.98 states that in rural areas, it is important to protect shops, post offices and public houses, as these fulfil a local function providing local services and reducing the need to travel. This protection is particularly important where there are no alternatives available locally. Applicants will need to satisfy the Council that the existing use is no longer viable and that a genuine attempt has been made to market the enterprise as a going concern. Where development is permitted, it would be regrettable if the building works prevented the future resumption of the former, or similar activity.
- 9.15 Saved Policy GP.93 of the AVDLP states that the Council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. Where permission includes building conversions, conditions will be imposed so as not to exclude the later resumption of a community use.
- 9.16 The National Planning Policy Guidance (NPPG) provides further guidance with respect to viable uses for heritage assets in paragraph 15 and states that it is important that any use is viable, not just for the owner, but also for the future conservation of the asset. It further states that if there is only one viable use, then that is the optimum viable use. Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised.
- 9.17 Paragraph 16 of the NPPG states that appropriate marketing is required to demonstrate the redundancy of a heritage asset in the circumstances set out in [paragraph 195] bullet 2 of the NPPF. The aim of such marketing is to reach all potential buyers who may be willing

to find a use for the site that still provides for its conservation to some degree. If such a purchaser comes forward, there is no obligation to sell to them, but redundancy will not have been demonstrated.

- 9.18 Taking the above policy background into account, it is considered that a proposed change of use could be acceptable, subject to the proposal demonstrating a compliance with the relevant local plan policies which is considered further against the criteria set by policies GP.32 and GP.93 in the following paragraphs.

Viability of Existing Use:

- 9.19 In coming to a view on whether the proposals comply with the first criterion set out in policy GP.32 and GP.93, officers have had regard to the viability of the existing use. The applicant has provided detailed marketing evidence to attempt to demonstrate that the public house is no longer viable. This evidence was previously challenged by the LPA on the grounds that a tenant was occupying the premises. So notwithstanding a marketing exercise had been carried out, there were doubts regarding the interest (or lack of) in the pub as a vacant building, given a trade was being carried out.
- 9.20 Turning to the marketing that has been carried out by the applicant in an attempt to sell the property, it has been demonstrated that Fleurets marketed the property between February 2017 and up until the time of submission of the previously refused application, February 2018. The initial asking price was £525,000 but was reduced to £495,000 in May 2017. In September 2017, the public house was offered on a leasehold basis but one month later was put back on the market as a freehold sale only. In this respect, no evidence has been submitted to demonstrate that the building has been marketed since December 2017.
- 9.21 The asking market rental rate was advertised as £36,000. The Valuation Office Agency (VOA) (Oxford Branch) were tasked (by AVDC) with appraising the submission of details. They were previously employed to appraise the first application and have again been instructed to further appraise the 'viability' of the public house as part of this current application. That being said, the comments received are almost identical to the comments received previously insofar as the asking price for the public house did seem to be at the higher end of values, when compared with similar pubs that have sold recently or that are currently on the market in the area. The VOA further states that the asking price may be indicative of the level of trade. Fleurets advertised the public house on their website and the sales particulars were sent to interested parties on their database. Further advertisements were placed on external websites as well as the Morning Advertiser, which is the main trade publication. The details were posted to licensed property operators registered on Fleurets database and a hardcopy mailshot was made to 132 local licensed businesses. Fleurets received very few enquiries and it is reported that no parties attended

an open viewing session in March 2017. The main concerns related to the layout of the establishment and the upkeep of the thatched roof.

- 9.22 The applicant has stated in a cover letter that when the building was purchased in 2006, refurbishment was needed to preserve the building given its listed status and this cost was in the region of £100,000. It is stated that, despite the refurbishment, the business still required financial support which occurred up until 2012 at which point the decision was taken to sell the property. There was no uptake however a new tenant occupied the property at a charge of £600.00 per week. After subsidising this tenant for circa 5 years, the property was again marketed as demonstrated by the documents submitted alongside this planning application.
- 9.23 It is further argued by the applicant that this cumulative loss has resulted in a need to change the use of the building to ensure the long term future and viability of the Grade II listed building. Furthermore, the landlord/applicant claims to have paid for insurances and repairs, one such repair being to the thatched roof which cost £23,000. These are costs which should typically be paid by the tenant of the property. It is stated that the total costs in supporting the public house to stay open, prior to the submission of the previous application in February 2018 exceeds £170,000.
- 9.24 It should be noted that no evidence (besides the aforementioned marketing information) has been submitted to demonstrate the costs and/or loss to the applicant. It is also noted that no accounts or trade information has been provided, however the VOA are able to rely on their own records.

Appraisal from the Valuation Office Authority (VOA) District Valuer:

- 9.25 The VOA concluded in their report that the property has been suitably marketed by a recognised licenced property agent for a suitable length of time. The initial high asking price was reduced after 3 months indicating a serious intention to sell as a freehold pub and although the final asking price is high, it is not totally out of line with market value. To conclude the 'marketing' aspect of the assessment, it is considered that the submission does satisfactorily comply with elements of the supporting policy text (4.98) to policy GP.32 of the AVDLP.
- 9.26 The VOA report recognises that there are other factors which may affect the viability of the public house and officers recognise these in coming to a view on viability.
- 9.27 The VOA reports that the freehold of the property was purchased by Interguide Group Ltd in 2006 following closure by the Vale Brewery Ltd in 2005. They refurbished the property and ran the operation until 2012 when it was let on a management tenancy until its closure in October 2017. The VOA notes that whilst actual trade figures or accounts have not been provided, their own records indicate that there was a consistent and steady level of trade

between 2014 and 2016 at a level of FMT (Fair Maintainable Trade) that would be expected for a pub of this character and size. The recent trade has actually been at a higher level than was being achieved in the 2000's. The report acknowledges that whilst the Carpenters Arms is predominantly a wet pub, around 25% of total trade in the past has been through food trade. In this regard, the VOA report concludes that trade has been steady and consistent and whilst accounts have not been provided, it is recognised that a historic thatched pub of this nature will have higher outgoings and repairs which will impact upon the profitability of the operation. The applicant claims that throughout the 12 year ownership of the property, the rent owing from tenants has often had to be subsidised.

9.28 The VOA report accepts that there was no interest in the property from recognised pub operators and that there are evident limitations to the property which result in there being higher outgoings for repairs, heating, insurance and wastage. Notwithstanding this, the report acknowledges that there are thatched pubs in small villages which are successful and evidently viable, such as in Weedon and Aston Abbots. The VOA report acknowledges that the decision of AVDC to remove the property in October 2017 as an Asset of Community Value (ACV) on the grounds that it was not being sufficiently used by the community may be a factor in the reported lack of interest from recognised pub operators. Finally, the report comments that the lack of local support for the public house, as evidenced by online reviews, goes some way in explaining the difficulties that the public house has faced in recent times. The lack of perceived support for the public house must be considered in light of the 32 letters of objection received as part of the public consultation exercise, with the majority of responders opposing the proposed loss of the public house. This number is considerably less than the 98 separate objections received in the previous application for a change of use. It was highlighted in the previous officer report that the number of objections represented approximately 20% of the Parish area whilst in this instance, the number of objections represents approximately 6% of the Parish residents.

9.29 Notwithstanding the above, it is considered that the VOA advice acknowledges there is not a strong case to demonstrate that the continued use of the public house is unviable. Therefore officers need to consider whether there is sufficient doubt in favour of sustaining the existing use, in viability terms. Officers have taken into account the VOA advice in weighing up the viability case, which whilst they note this is marginal in the VOA's view they continue to acknowledge that on balance with the information available they do not disagree with the view that the property is not viable as a public house for the limitations set out above.

Consideration of 3rd party evidence:

- 9.30 In arriving on a conclusion as to whether the public house is viable, the LPA should take account of all information available to the decision-maker. In refusing the previous application at this site, the case officer concluded that, on balance, the pub could have been demonstrably viable given that a tenant was occupying the premises and paying around (or marginally above) market rent. Further correspondence with that tenant has been entered into as part of the assessment of this application. That tenant has confirmed in writing to the LPA that the level of business at the pub does not allow for a sustainable business. It is stated by the most recent tenant, that the rent is approximately double that of the previous tenants before him. However importantly, the previous tenant states that even if the rent were reduced by 50%, the 'takings' would only match the rent and therefore not allow for a level of profit to be made where the public house could be purchased in the future.
- 9.31 The VOA report also acknowledges that the previous tenant left the premises early and monies are still owing in respect of rent which is a further loss endured by the applicant.
- 9.32 Notwithstanding the above, it has been noted in several forms of correspondence that the previous tenant spent reasonable sums of money in ensuring the up-keep of the building and securing improvements to the interior condition in order to attract customers. It was stated by the previous tenant that when the pub re-opened under his tenancy, the pub was generating an income in the region of £10,000 per month, but no evidence of this has been provided.
- 9.33 The VOA were made aware of the above circumstances subsequently to their initial report but responded by stating, even if market rent is being paid to occupy the pub, the pub itself has been heavily subsidised for many years and this would likely remain the situation moving forward. In this instance, the VOA have concluded the same as before, in that they do not disagree with the view that The Carpenters Arms is not viable as a public house.

Alternative establishments:

- 9.34 In coming to a view on whether the proposals comply with the second criterion set out in policy GP.32 and GP.93, officers have had regard to the presence of alternative local facilities in the area.
- 9.35 With regard to alternative establishments (for the purposes of this assessment referred to as local competition), the following establishments and their distinguishable qualities were identified as being within a 3 mile radius of the Carpenters Arms:
- The Grove Lock, Grove – Fullers managed food pub on the canal
 - The Stag, Mentmore – Dining pub/restaurant

- The Old Swan, Cheddington – Thatched destination food pub with 70 covers and 30 parking spaces and large garden
- The Swan, Northall – Large car park and garden
- The Village Swan, Ivinghoe Aston – Large car park
- The Three Horseshoes, Cheddington – Large car park

9.36 It has been highlighted by numerous objectors that the planning permission for Bury Farm Equestrian Village (also owned by the applicant), located on the edge of Slapton, restricts the use of the licensed restaurant to customers/users of the equestrian village and not therefore to serve the general public.

9.37 It has also been brought to the attention by a small number of objectors that The Stag in Mentmore has closed down although there does not appear to be any reports in local media of this.

9.38 Taking the above into account, it is recognised that there are other existing facilities that provide similar services to the existing public house use, in the area, although these are not within Slapton itself, and therefore Slapton residents may frequent these nearest facilities by private transport, rather than walking/cycling. It is considered that the proposed loss of the public house could therefore result in an increase need to travel to the other nearest facilities which goes against the explanatory text to policy GP.32.

Community Benefits of the Proposed Use:

9.39 In coming to a view on whether the proposals comply with the third criterion set out in policy GP.32 and GP.93, officers have had regard to the potential community benefits of the proposed use. It is considered that the change of use of the public house to residential would have a limited community benefit (given that there is accommodation provided above the public house as existing). The occupation of this building for residential purposes would contribute to the local economy and further public benefits would arise from the safeguarding of a historic building. It is however acknowledged any benefits are tempered given the current community benefit provided by the established public house that lies in the heart of the village, which would otherwise be in use and serving a local need.

Conclusions:

9.40 Policy GP.32 states that the Council will resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need. In considering applications for alternative development or uses the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. In rural areas it is important to protect shops, post offices and public

houses as these fulfil a local function providing local services and reducing the need to travel. This protection is particularly important where there are no alternatives available locally.

- 9.41 The LPA previously considered that the argument put forward by the applicant was not substantially weighted in favour of an approval as a direct result of doubts and ambiguity regarding the viability of the public house. As part of this submission, the LPA has given consideration to the same set of evidence submitted but also to account for the occupancy and latterly vacation of the premises by the previous tenant. As such, it has now been concluded, albeit marginally, that the pub is not viable within that use class and that resultantly, the change of use should be supported by officers as the proposal complies with policies GP.32 and GP.93 of the AVDLP and also to secure the long term future of the public house. It is concluded that the loss of economic and social benefits to the local community would be outweighed by the potential benefits of the scheme and would further comply with the guidance of the NPPF.

c) Whether the proposal would constitute a sustainable form of development.

- 9.42 The most up to date national policy is set out in the NPPF published in February 2019. At the heart of the NPPF is the presumption in favour of sustainable development (paragraph 11) in both plan-making and decision-taking. 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.
- 9.43 The Government's view of what "sustainable development" means in practice is to be found in paragraphs 7 to 211 of the NPPF. Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 9.44 Policy RA.11 supports the conversion and re-use of buildings in the countryside, however this refers to areas outside the built-up area of settlements. As the application site falls within the Slapton Settlement Boundary, policy RA.11 is not engaged in this instance.
- 9.45 In terms of its broader location, Slapton is defined as a 'Smaller Village' in the Settlement Hierarchy Assessment (September 2017). Smaller villages are characterised as typically

having an average population of 463 and have between 2 and 5 of the 11 key services. In this instance, Slapton has a population of 528 and 4 of the key services (3.5 miles to service centre being Leighton Buzzard, 2 public houses one of which is the subject of this application and the other being Grove Lock, a village hall and a recreation ground). On this basis, and for the purposes of this assessment, it is recognised that Slapton is in principle not a sufficiently sustainable location to accommodate further significant development because of the limited services however a small level of development is unlikely to lead to any environmental harm as there is already built form and small scale development will contribute towards providing locally needed homes for families to remain in the same communities and to contribute to vitality.

- 9.46 The proposed dwelling would result from the change of use of the existing public house which lies within the settlement boundary of Slapton as demonstrated in the SPNP Policies Map. Given the nature of the proposal and the limited works that would be required to facilitate a change of use to a dwelling, the proposal is considered to constitute a 'small scale' development, for the purposes of this assessment.

Delivering a sufficient supply of homes

- 9.47 In respect of affordable housing the scheme does not meet the thresholds for securing such provision on site as outlined in AVDLP policy GP2 which refers to the provision of 25 dwellings or more or a site area of 1 ha or more. The proposal comprises the change of use of the building which comprises a public house with ancillary residential accommodation above to a single two bed dwellinghouse. The provision of a single dwelling would make a modest addition to the housing stock.
- 9.48 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 would be a benefit to which positive weight should be given, owing to the scale of development and its relatively limited contribution.
- 9.49 Paragraphs 77-79 of the NPPF (2018) are particularly relevant to this application for rural housing. Paragraph 78 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 9.50 Paragraph 79 relates to isolated homes in the countryside and states that an exception to this would be if the development would represent the optimum viable use of a heritage asset. In this instance, the application site is within the Slapton settlement boundary and so would not be considered an isolated dwelling.

Build a strong, competitive economy

- 9.51 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. Paragraph 83 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and the development and diversification of agricultural and other land-based rural businesses. Part (d) in particular states that the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 9.52 Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 9.53 Whilst the proposal would appear to contribute towards the long term viability of the building, ensuring its up-keep for the foreseeable future, the proposed change of use would result in the loss of a significant local amenity/facility for the residents of Slapton and would likely result in a loss to the local economy through the change of use.

Promoting healthy and safe communities

- 9.54 Policies GP86-88 and GP94 seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. school places, public open space, leisure facilities, etc.).
- 9.55 Decisions should aim 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.
- 9.56 In this instance, the provision of a single dwelling would not require contributions to be made in respect of the above facility provision.

Promoting sustainable transport

- 9.57 It is necessary to consider whether the proposed development is located where the need to travel will be minimised, the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved. It is the case that Slapton is a small settlement with a restricted bus services such that travel by car is likely to be the normal mode of transport. Nevertheless, whilst the bus services are infrequent, Slapton has better connections to the main settlements (in this case Leighton Buzzard and Dunstable/Luton) when compared with some other smaller settlements.
- 9.58 In terms of access arrangements, the highways engineer has been consulted and states that there are no comments to make in respect of the access as it already exists to serve the public house. It is however noted that the change of use to a dwelling would result in less vehicular trips than would be expected from the existing use. In any case, the application site lies in the middle of the settlement boundary so the access and suitability of location would not be dissimilar from surrounding developments. It is therefore concluded that safe and suitable access to the site can be achieved for all users in accordance with paragraph 108 of the NPPF (2019).
- 9.59 With regard to parking provision, the application form confirms that the proposals will result in the provision of a two bed-dwellinghouse. It is considered the provision of a single car space would therefore be required to comply with the Councils SPG. However, as noted from the appraisal by the District Valuer and from the site visit carried out, the existing property benefits from 12 off-street parking spaces. If retained in its entirety, the parking area would exceed the maximum parking requirement and the introduction of additional soft landscaping would therefore be sought, which could be secured by condition.

Supporting high quality communications

- 9.60 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. Given the location of the proposed development, and bearing in mind that they would be in the most part reusing an existing building, it is considered unlikely for there to be any adverse interference upon any nearby broadcast and electronic communications services as a result of the development. It is therefore considered that the proposal would accord with the guidance set out in the NPPF.

Making effective use of land

- 9.61 Paragraph 117 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic

policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land. Footnote 44 states that the aforementioned does not apply where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity.

- 9.62 Paragraph 122 of the NPPF states that planning policies and decisions should support development that makes efficient use of land, taking into account: the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; local market conditions and viability; the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use; the desirability of maintaining an areas prevailing character and setting (including residential gardens), or of promoting regeneration and change; and the importance of securing well-designed, attractive and healthy places.
- 9.63 In this instance, the proposed dwelling would be created by re-using/converting previously developed land and buildings (as defined in Annex 2) but the principle of on-site accommodation has already been established in any case as accommodation exists above the main public house service areas.

Achieving well designed places

- 9.64 Policy SLP6 of the SPNP refers to design and states that proposals for development will be supported if they conform to the design principles relevant to the character area in which they are located. In this instance, the application site lies within an area identified as Slapton Character Area 5 (Village Centre). This states that development proposals should not harm the contribution that the Carpenters Arms and Brewery Cottages make in defining the centre of the village; care should be taken to preserve the visual dominance of both existing buildings particularly when viewed from the south along Horton Road. Any development proposals that stand forward of the current building line of the adjacent bungalows on Horton Road, rise above the Carpenters Arms or Brewery Cottages, or obscure the view of the Maltings beyond the car-park will be resisted.
- 9.65 Policy GP.35 of the AVDLP 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. The Council's adopted supplementary planning guidance in the form of the 'New Buildings in the Countryside' Design Guide is also relevant in respect of new dwellings resulting from a change of use.

- 9.66 This policy is in general conformity with the NPPF (2019) which states in paragraph 124 that 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. Paragraph 126 states that visual tools such as design guides and codes provide a framework for creating distinctive places, with a consistent and high quality standard of design. It is further stated that decision making should ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; sympathetic to local character and history et al.
- 9.67 In this respect, it is noted that no external works are proposed to the building and the Heritage Officer has insisted that the signage be retained by way of planning condition, to ensure the character and appearance of the building is retained. Further soft landscaping has been mentioned above in this report but it will be important to ensure that potential landscaping does not obscure the view of Maltings as mentioned in the neighbourhood plan.
- 9.68 The 'New Houses in Towns and Villages' Design Guide states that car parking should preferably be set behind buildings or screened from public view. New and existing walls, trees, hedges and shrubs should be used to screen and improve the appearance of parking and turning areas. Car parking needs to be convenient but should not be allowed to detract from the setting of houses. As such, a landscaping condition could ensure an improved visual amenity and promote compliance with SLP6 of the SPNP, the Design Guide, the AVDLP & the NPPF.
- 9.69 On the basis that no external works are proposed, it is considered that the proposal would have an acceptable impact on the visual amenities of the site, wider area and neighbouring amenities in general, in accordance with policy SLP6 of the SPNP, policy GP35 of the AVDLP and the advice contained within the 'New Houses in Towns and Villages' Design Guide and the NPPF.

Meeting the challenge of climate change and flooding

- 9.70 Paragraph 148 of the NPPF (2018) states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

- 9.71 Specifically with regard to flood risk, it is stated that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 9.72 The application site falls within Flood Zone 1 and is therefore considered to be at very low risk of flooding and in addition, no external works are proposed as part of the change of use application.

Conserving and enhancing the natural environment

- 9.73 Regard must be had as to how the proposed development contributes to (inter alia) 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 (2018) in paragraph 170. In addition, GP.35 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. It is also reinforced by the Council's 'New Buildings in the Countryside' Design Guide which encourages new development to recognise and respect landscape and local character.
- 9.74 Policy SLP6 of the SPNP relates to 'design' and whilst this policy does not prescribe natural landscape characters and appearance, it does state that proposal for development will be supported if they conform to the design principles relevant to the character area within which they are located. In this instance, the Carpenters Arms is located within Character Area 5 as identified on the SPNP Proposals Map.
- 9.75 The application site comprises of entirely 'brownfield' land and the proposal involves the change of use of an existing building. As such, it is considered that the impact upon the natural environment would be inconsequential.
- Habitats and Biodiversity
- 9.76 Paragraph 175 of the NPPF sets out 4 principles LPA's should apply when determining planning applications which seek to prevent significant harm to biodiversity unless adequate mitigation or exceptions apply, otherwise permission should be refused. Conversely, development whose primary objective is to conserve or enhance biodiversity should be supported. There would be an absence of harm to arise as a result of the proposed development on biodiversity.

Conserving and enhancing the historic environment

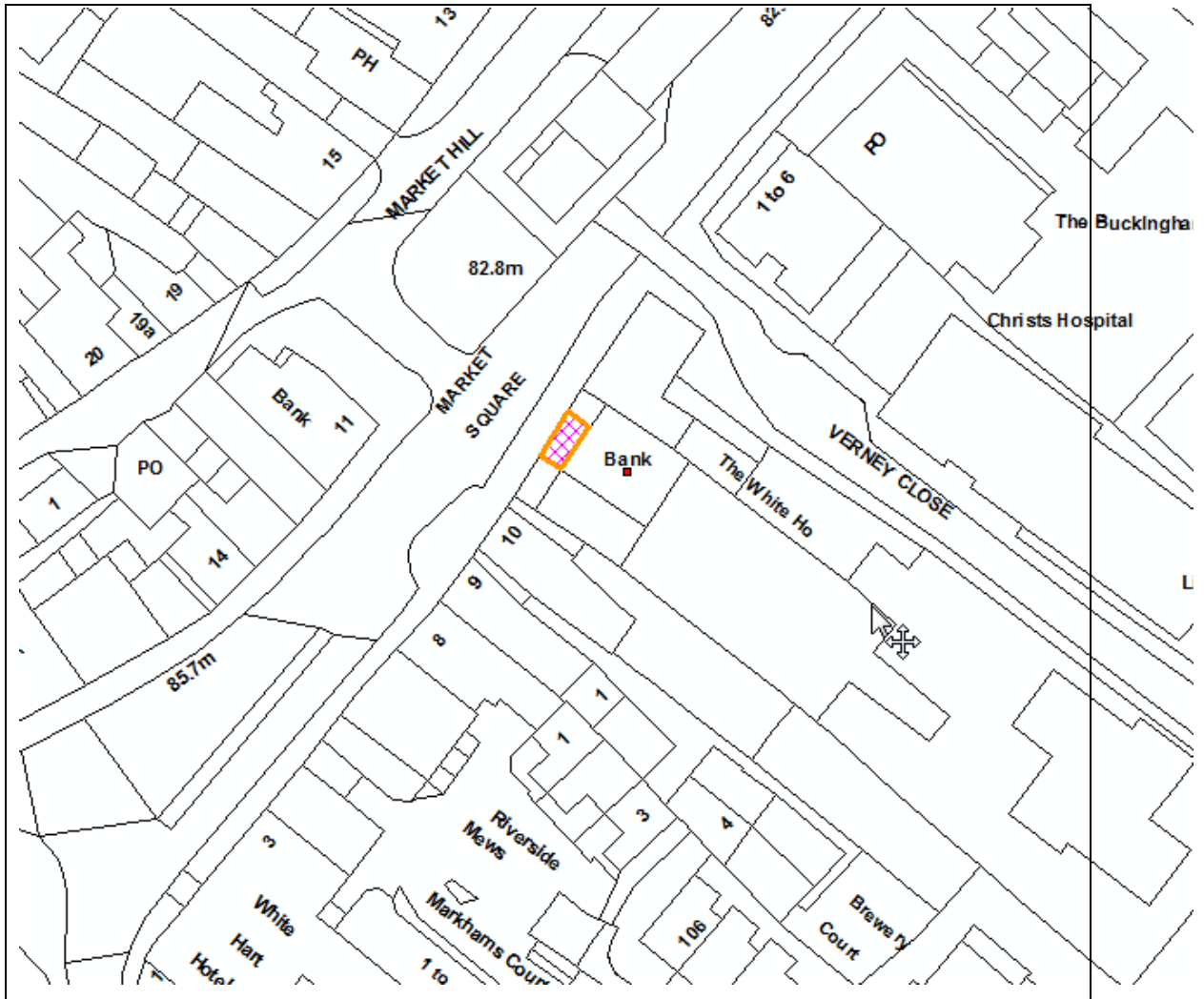
- 9.77 The SPNP, as already assessed above, makes reference to the heritage assets within the village and settlement boundary but save for policy SLP6, does not prescribe how heritage matters should be assessed. The policies in the AVDLP with regard to Listed Buildings have not been saved. This aspect is therefore assessed against the content of the NPPF.
- 9.78 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 9.79 Paragraph 195 states that where a proposed development would lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: the nature of the heritage asset prevents all reasonable uses of the site; no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use.
- 9.80 Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In this instance, the heritage assets being considered are the Carpenters Arms and the adjoining Maltings to the east which are both Grade II Listed Buildings.
- 9.81 The Council's Heritage Officer has been consulted and states that with the signage retained, this application is considered to preserve the special architectural features of the listed building. However, a key element of the buildings historic interest is its use as a public house. The conversion works would inevitably affect this character as a result of the proposed change of use, but is not considered that any material harm would result, that the application could be refused on those grounds. The viable use of the listed building as a public house therefore needs to be carefully considered.
- 9.82 It is noted that the District Valuer did not carry out a site visit and this is a concern of the heritage officer, however given that the significance and character of the building could be retained through appropriate planning conditions, it would not appear reasonable to refuse the planning application on heritage grounds and detailed consideration has been given to the viability of the public house within that use as part of the determination of this application.

- 9.83 Therefore an assessment can only be made on the details submitted and as no internal or external alterations have been shown on the submitted plans, this is the basis on which the Heritage Officer has provided comment and which officers have based this assessment on. In summary the proposed change of use would not adversely affect the setting of the listed building or nearby listed building and, as such, is in accordance with Section 66 of the Planning (Listed Building & Conservation Area) Act (1990) and the guidance as set out in NPPF (2019).
- 9.84 Special regard has been given to the statutory test of preserving the (setting of the) listed building under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, which is accepted is a higher duty. It has been concluded that the setting of the listed buildings would be preserved and so the proposal accords with section 66 of the Act. In addition, no harm would be caused to the significance of any heritage assets, in NPPF terms, and as such the proposal accords with guidance contained within the NPPF.

(c) Impact on residential amenity

- 9.85 Policy GP.8 of AVDLP seeks to protect the residential amenity of nearby residents, whilst paragraph 127 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 9.86 As no external works are proposed, it would appear only appropriate in this instance to consider relevant factors resulting from the proposed change of use to a dwelling. However as the existing building falls within a Class A4 use (public house) it is reasonable to suggest that an operating public house would return a level of noise that is greater than could be expected compared with a single family dwellinghouse. Similarly the number of traffic movements would be expected to be fewer resulting in less potential for traffic conflicts within the immediate locality. Noise levels within the premises and outside would be anticipated to be lower as a result of the change of use.
- 9.87 As such, it is considered that the proposal would provide some benefits in terms of reduced noise and disturbances from the continued use as a public house for the immediately adjacent existing neighbouring properties. Therefore, as there would be no adverse implications on nearby residents, as a result of the change of use, the proposals are considered to comply with policy GP8 of the AVDLP and the development would protect residential amenities.

18/03475/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/03475/APP	BUCKINGHAM NORTH WARD	03/10/2018
CHANGE OF USE OF LAND FROM PUBLIC HIGHWAY TO AN OUTDOOR SEATING AREA 1-2 MARKET HILL, MK18 1JS	The Local Member(s) for this area is: - Cllr Simon Cole Cllr Timothy Mills	
Coffee#1 Ltd STREET ATLAS PAGE NO. 41		

1.0 The Key Issues in determining this application are:-

<p>a) The planning policy position and the approach to be taken in the determination of the application including whether the development is in accordance with the Buckingham Neighbourhood Development Plan and the most relevant policies in the Aylesbury Vale District Local Plan (The Development Plan).</p> <p>b) Whether the proposal would constitute a sustainable form of development having regard to:</p> <ul style="list-style-type: none"> - Building a strong competitive economy - Promoting sustainable transport - Achieving well-designed places - Conserving and enhancing the historic environment <p>c) Impact on the amenities of neighbouring occupiers</p> <p>The recommendation is that permission be GRANTED, subject to conditions</p>

2.0 CONCLUSION and RECOMMENDATION

2.1 The proposal would preserve and enhance the character and appearance of the Buckingham Conservation Area. Suitable clearance is retained to enable pedestrians, buggys and wheelchair users to safely continue to use the pavement. The proposals would not give rise to any increase in parking provision and the proposed development would not impact on the living conditions of residential properties. Consequently, the proposals would accord with Buckingham Neighbourhood Development Plan Policies EE3 and EE4,, Policies GP8, GP35 and GP53 of the AVDLP, the National Planning Policy Framework and guidance set out in chapter 6 of Manual for Streets

2.2 It is therefore recommended that planning permission be APPROVED subject to the following conditions:-

1. STC5 – Standard time limit
Reason: RE03

2. The development hereby permitted shall be carried out in accordance with drawing No. A-G/1158-18 P3 REV C and 047 PD01 REV D; submitted under cover of agents email dated and received by the Local Planning Authority on 4th February 2019

Reason: For the avoidance of doubt and to ensure that the details of the development are acceptable to the Local Planning Authority and to comply with the National Planning Policy Framework.

3. The tables, chairs and windbreaks shall be removed from the footway at end of each trading day (i.e. by 20:00 Mondays to Fridays and 18:30 on Sundays, Bank and Public Holidays.)

Reason: To preserve the character and appearance of the Buckingham Conservation Area and to accord with the National Planning Policy Framework

Informative:

The applicant is advised that a Section 115 license must be obtained from the Highway Authority prior to the commencement of the development. A period of 28 days must be allowed for the issuing of the license, Please contact 'Transport for Buckinghamshire' at the following address for information:-

Transport for Buckinghamshire

Aylesbury Vale Area Office

Corrib Industrial Park

Griffin Lane

Aylesbury

Buckinghamshire

HP19 8BP

Tel 0845 230 2882

3.0 WORKING WITH THE APPLICANT

3.1 In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, Aylesbury Vale District Council (AVDC) takes a positive and proactive approach to development proposals and is focused on seeking solutions where possible and appropriate. AVDC works with applicants/agents in a positive and proactive manner by offering a pre-application advice service and updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions. In this case the applicant submitted amended information which was considered to be acceptable and all outstanding issues have been resolved.

4.0 INTRODUCTION

4.1 This application needs to be determined by the committee because the Town Council have objected to the development proposals and have requested to speak at committee. Despite the applicant submitting amended information, the objection remains. Whilst the Town Council note that pavement cafes can be controlled by licencing this does not preclude the need to regularise the proposed change of use. The Town Council are

concerned that sufficient clearance is not retained to allow pushchairs and wheelchairs to pass on the pavement. The scheme however has been amended to address these concerns to allow for 2 metres of unobstructed pavement which is the recommended minimum distance cited in Manual for Streets to enable convenient pushchair and wheelchair access.

5.0 SITE LOCATION AND DESCRIPTION

- 5.1 This application relates to 1-2 Market Hill Buckingham which is a part two, part three storey building built-out in the 1970s. 1-2 Market Hill is located within Buckingham Town Centre and Buckingham Conservation Area and forms part of a terrace extending from the White Hart Hotel to The White House. All of the buildings within this terrace are Grade II Listed Buildings with the exception of the application building. The application building adjoins The White House
- 5.2 The building is constructed of brick which has recently be treated with a combination of cream and white render and appears to comprise three storeys from the street elevation although it has a basement level below. The ground slopes to the rear and so the basement forms an additional floor as viewed from the rear. The shop fronts at street level are set back from the pavement are enclosed in arches forming an arcade. The building comprises three distinct bays when viewed from within the Market Hill streetscene. The building was most recently occupied by a bank (Class A2 use) and dry cleaners (Class A1 use). The building is currently undergoing building works associated with the implementation of 18/00328/APP.

6.0 PROPOSAL

- 6.1 The planning application proposes the change of the use of the pavement outside 1-2 Market Hill from public highway to an outdoor seating area to serve a coffee shop the use for which was recently approved under planning application reference 18/03474/APP . The outdoor seating area would comprise three round tables around which two chairs each would be seated. The seating would be enclosed by three windbreaks and the scheme has been amended to account for the Town Council's concerns to retain 2 metres between the edge of the seating area and the edge of the pavement.

7.0 RELEVANT PLANNING HISTORY

- 7.1 18/00328/APP - Conversion, alterations and roof extension to create eight new 1 bedroom dwellings. Reconstructed and remodelled elevation facade facing Market Hill including new shop fronts.- Infilling of covered front arcade on ground floor to create increased retail area.- Conversion of retail space involving alterations to the external envelope of the building. - APPROVED
- 7.2 18/02554/ACL - Application for a Lawful Development Certificate for an existing use (A1) - ACL1
- 7.3 18/A0328/DIS - Submission of details pursuant to Condition 3 (Part) - Window Details, Condition 4 - External materials, Condition 5 - Protection of adjacent and Condition 7- Drainage – CONDITION DISCHARGED
- 7.4 18/03021/ACL - Application for a Lawful Development Certificate - APPROVED
- 7.5 18/03140/APP - Conversion of part of the lower ground floor to provide a one-bedroom flat within the lower ground level of former NatWest Bank building, including associated external works. – Decision pending
- 7.6 18/03474/APP - Change of use of the above property from a Class A1 (retail) use to a mixed Class A1/A3 use (coffee shop), together with external shop front alterations and the implementation of 2 No. air conditioning condenser units and 4 No. replacement windows to the rear of the property. – Approved

7.7 18/03476/AAD - `1 No. illuminated fascia sign and 2 No. illuminated projecting signs – Decision pending

8.0 PARISH/TOWN COUNCIL COMMENTS

Buckingham Town Council – objects and requests to speak at committee – “ Members strongly object to the acquisition of public highway when a pavement license would suffice, but also points out that this particular footway was too narrow to accommodate tables, chairs and protective barriers AND allow push chairs, wheelchairs and mobility scooters to get past and access the adjacent pedestrian crossing”

9.0 CONSULTATION RESPONSES

9.1 Bucks County Highways – No objection subject to conditions

9.2 Heritage Officer – no objection

9.3 Environmental Health – no objection

9.4 Bucks County Archaeology – no objection

10.0 REPRESENTATIONS

10.1 One letter of objection has been received as a result of the publicity surrounding this planning application. The comments can be summarised as follows:

- Manual for Streets require 2 m of clear pavement
- Remaining walkway would be too narrow
- Pavement in on an incline – would unbalance tables and chairs
- Windbreak would not contain tables, chairs and legs and there would be overspill onto the public highway

11.0 EVALUATION

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

11.2 Members are referred to the Overview Report before them in respect of providing the background information to the Policy Framework when coming to a decision on this application.

11.3 The starting point for decision making is the Development Plan. For the purposes of this report, the Development Plan consists of the adopted Buckingham Neighbourhood Development Plan and the Aylesbury Vale District Local Plan.

11.4 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 (July 2018) and the Planning Practice Guidance are both important material considerations in planning decisions. Neither change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF, PPG and other material considerations. Determination of the application needs to consider whether the proposals constitute sustainable development having regard to Development Plan policy and the NPPF as a whole.

Neighbourhood Plan

11.9 The Buckingham Neighbourhood Development Plan was made on the 30th September 2015 following a referendum in which more than half of the participants voted to adopt the plan. The policies within this document are therefore held in full weight for the purposes of decision taking at this time. The BNDP contains the most relevant and up to date policies against which this planning application should be assessed. It contains policies relevant to the principle of the change of use. BNDP policy EE3 relates to the development of the town centre. It explains that applications will be supported for new town centre uses (A1, A2, A3, A4, A5, B1(a), C1, D1 & D2) within Buckingham town centre. Policy EE4 of the BNDP seeks to retain and enhance the primary and secondary retail frontages in the town. BNDP policy I1 required pedestrian routes should be suitable for disabled access. The assessment of the development proposals against the relevant policies are considered in the following sections of this report.

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

11.10 Members are referred to the Overview Report for the Council's Emerging Policy Position. The key points of which is that the adoption of the Vale of Aylesbury Plan is planned to take place in 2019 and the policies within it are currently held in limited weight.

Whether the Proposals would Constitute Sustainable Development

11.12 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.

11.13 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.

Conclusion on policy framework

11.14 In considering this application, the AVDLP and Buckingham Neighbourhood Development Plan constitutes the Development Plan, and this forms the primary basis for determining the application. The emerging VALP will gather increasing weight as it moves forward but has not yet reached a stage at which it could be afforded any meaningful weight in decision-taking nor at which a refusal on grounds of prematurity could be justified. The Council can currently demonstrate a 5 year supply of housing land based on the latest housing land supply calculation.

11.16 The relevant objectives are considered below in this report and an assessment is made of the benefits associated with each development together with any harm that would arise from a failure in meeting these objectives.

Building a Strong Competitive Economy

11.17 The Government is committed to securing and supporting sustainable economic growth and productivity in order to create jobs and prosperity 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.

- 11.18 Policy EE4 of the BNDP seeks to retain and enhance the primary and secondary retail frontages in the town. It explains that, to ensure the protection and enhancement of the town centre as a shopping destination, the introduction of new non-retail uses (Classes A2, A3, A4 and A5) will be restricted to 35% of the sum total of the primary retail frontages.
- 11.19 AVDLP policy BU6 relates to the Buckingham primary shopping frontage, within which the application site sits. It states that in this location the Council will not permit changes of use to non-retail uses that weaken the shopping strength and interest of the area. It continues by explaining that that redevelopment that incorporates ground floor shopping uses and enhances the trading characteristics and liveliness of the central area will be permitted.
- 11.20 The development proposals are concerned with the investment in a business premises and significant weight should be apportioned to the fact that the development proposals are concerned with the introduction of a new town centre use to a vacant unit. The change of use of the town centre unit itself was the subject of planning application reference 18/03474/APP which was recently approved under delegated powers. To consider the change of use of the public highway to an outdoor seating area, the pavement café is considered to be a use that will enhance the trading characteristic and liveliness of the central area and will support other retail functions in the town through providing opportunities for linked visits to the town. On this basis the development proposals are considered to comply with the policy EE3 and EE4 of the BNP, policy BU6 of the AVDLP and the advice contained in the NPPF.

Promoting Sustainable Transport

- 11.21 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 guidance 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.
- 11.23 Policy I1 of the BNDP requires pedestrian routes to be suitable for disabled access.
- 11.24 AVDLP policy GP.24 requires that new development accords with published parking guidelines. SPG1 'Parking Guidelines' sets out the appropriate parking requirements for various types of development.
- 11.25 In assessing the transport considerations that arise from the proposals, there is no reason to think that the addition of a pavement café would amount to a severe cumulative impact on the highway network particularly given that the Buckingham is a strategic settlement location that is well served by employment opportunities, services and facilities and has good access to public transport. The site is located in an area where alternative transport modes, other than private car, are a realistic, convenient and attractive alternative.
- 11.26 It is necessary to consider the proposals from a highway safety point of view. Originally the development proposals showed a larger seating area with a retained pavement width

of 1.5 metres which falls below the standard to allow safe access. The development proposals have been amended to show a smaller seating area, enclosed by a wind break and leaving 2 metres of unobstructed pavement. This meets the minimum requirement set by the chapter 6 of Manual for Streets and the highways officer has subsequently removed their objection to this planning application. Sufficient clearance has been retained to allow pedestrians, wheelchair users and buggies to continue to safely use the pavement. The development proposals would not give rise to any increased parking requirement.

11.27 The development proposals are subsequently considered to be in accordance with BNDP policy I1, AVDLP policy GP.24 and the guidance contained within the NPPF.

Achieving well designed places

11.28 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.

11.29 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) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

11.30 Permission should be refused for development of 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 in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

11.31 Policy GP.35 of the AVDLP 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.

11.32 The development proposals relate to the pavement only and will subsequently have no impact on the appearance of the building. A specification of the tables and chairs have been provided and these are of usual appearance and would be acceptable appearance in their conservation area context. It is also noted that the table and chairs are removable and would subsequently not be a permanent fixture. There is no reason, with the use of the windbreak, the proposed pavement café would not be capable of providing a safe and

secure environment. The development proposals are subsequently considered to accord with AVDLP policy GP35 and the advice contained in the NPPF.

Conserving and Enhancing the Historic Environment

11.34 There are a number of listed buildings within the vicinity, including both adjacent buildings which are Grade II Listed and designated heritage assets. The site is also located in the *Buckingham Conservation Area (CA)*. Special regard has to be given to the statutory test of preserving the setting of the Listed Buildings under section 66 and preserving and enhancing the character and appearance of the conservation area under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, which is accepted as a higher duty. The Heritage Officer has concluded that, as the furniture is not fixed and will be removable on a daily basis, this application is supported in heritage terms and the setting of the adjoining Listed Buildings and the character and appearance of the conservation area would be preserved. The proposals are thus considered to accord with section 66 and section 72 of the act AVDLP policy GP53 and the advice contained in the NPPF.

Impact on residential amenity

11.35 The NPPF at paragraph 127 sets out 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. Policy GP95 of the AVDLP explains that in dealing with planning proposals, the Council will have regard to the protection of the amenities of existing occupiers. Development that exacerbates any adverse effects of existing uses will not be permitted.

11.36 Whilst it is acknowledged that there are residential flats on the upper levels of the application building and buildings within the site's surroundings, the pavement café will be a day time use and in a bustling town centre location the addition of three outdoor tables are not considered to give rise to any material increase in noise and disturbance. The development proposals are subsequently considered to accord with AVDLP policy GP8 and GP95 and the advice contained in the NPPF.

Case Officer: Laura Ashton

Telephone No: 01296 585854

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THE FOLLOWING ADDITIONAL ISSUES HAVE BEEN TAKEN INTO ACCOUNT IN PREPARING THE REPORTS ON THIS AGENDA

DETERMINATION OF PLANNING APPLICATIONS

The Council is required in all cases where the Development Plan is relevant, to determine planning applications in accordance with policies in the Development Plan unless material considerations indicate otherwise.

HUMAN RIGHTS ACT 1998

The determination of the applications which are the subject of these reports is considered to involve the following human rights:-

1. Article 8: Right to respect for private and family life; and
2. Article 1 of the First Protocol: Protection of Property

The evaluation section of each report considers in detail the competing rights and interests involved in the application. Having had regard to those matters in the light of the Convention rights referred to above, it is considered that the recommendations in the reports are in accordance with the law, proportionate and balances the needs of the Applicant with the protection of the rights and freedoms of others in the public interest.

SECTION 17 CRIME AND DISORDER ACT 1998

In reaching the recommendations set out in each report, due regard has been given to the duty imposed upon the Council under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area.

EQUALITY ACT 2010

In dealing with planning applications on this agenda and in reaching the recommendations set out in each report, proper consideration has been given to the duty imposed on the Council under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by that Act; to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Act are a person's age, sex, gender assignment, sexual orientation, disability, marriage or civil partnership, pregnancy or maternity, race, religion or belief.

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