



AYLESBURY VALE DISTRICT COUNCIL

Democratic Services

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22 March 2019

DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of the **Development Management Committee** will be held at **1.00 pm** on **Thursday 4 April 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. MINUTES (Pages 3 - 6)

To approve as a correct record the Minutes of 22 February and 14 March 2019 (Copies attached as Appendices)

4. DECLARATION OF INTEREST

Members to declare any interests.

5. QUARTERLY PERFORMANCE REPORT - QUARTER 3 (Pages 7 - 24)

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

Contact officer: Henry Allmand

NOT BEFORE 1.15 PM

6. REPORT OF THE CORPORATE PLANNER

7. 18/01731/APP - LAND OFF BRILL ROAD, OAKLEY (Pages 25 - 28)

Report following the site visit on Tuesday 18 March 2019 for Retrospective application for consent to cover part of site in granular hard surfacing using asphalt scrapings.

Case Officer: Rebecca Jarratt

8. 18/03244/APP - LUCCA, 20 HIGH STREET, WENDOVER (Pages 29 - 38)

Retention of Flue and Cowl.

Case Officer: Hannah Mitchell

9. SITE VISIT ARRANGEMENTS

10. HUMAN RIGHTS ACT (Pages 39 - 40)

Agenda Item 3

Development Management Committee

14 MARCH 2019

PRESENT: Councillor ; Councillors A Bond (Vice-Chair, in the Chair), J Brandis, M Collins, P Cooper, N Glover, R Khan, T Mills, S Morgan, M Rand and D Town

APOLOGIES: Councillors P Fealey and P Strachan

1. QUARTERLY PERFORMANCE REPORT - QUARTER 3

This item was withdrawn from the meeting.

2. REPORT OF THE CORPORATE PLANNER

This item was withdrawn from the meeting.

3. 18/01731/APP - LAND OFF BRILL ROAD OAKLEY

RESOLVED –

That the application be **Deferred** for a site visit to take place.

Note: Councillor M. Rand declared a prejudicial interest on this item and left the chamber during the debate and vote.

4. 18/03976/APP - CARPENTERS ARMS PH, HORTON ROAD, SLAPTON

RESOLVED –

That the application be **Deferred** for more information to be reported to Committee.

Note: Councillor P. Cooper declared a prejudicial interest on this item and left the chamber during the debate and vote.

5. 18/03475/APP - NATIONAL WESTMINSTER BANK PLC, 2 MARKET HILL, BUCKINGHAM

This item was withdrawn from the meeting.

6. SITE VISIT ARRANGEMENTS

Consideration was given to the timing of a site visit in relation to application 18/01731/APP in Oakley Ward.

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Public Document Pack

Development Management Committee

22 FEBRUARY 2019

PRESENT: Councillor P Fealey (Chairman); Councillors A Bond (Vice-Chairman), J Brandis, M Collins, P Cooper, N Glover, R Khan, T Mills, M Rand and D Town

APOLOGIES: Councillors S Morgan and P Strachan

1. MINUTES

RESOLVED –

That the Minutes of the meeting held on 31 January 2019 be approved as a correct record.

2. REPORT OF THE CORPORATE PLANNER

APPLICATIONS DETERMINED

RESOLVED –

That the applications submitted under the Town and Country Planning Act, 1990 (as amended) and the Town and Country Planning (Development Management Procedure) (England) Order, 2015 be determined as set out below.

NOTE: The standard planning conditions and reasons referred to are as set out in the publication “Aylesbury Vale District Council – Planning Conditions and Reasons” – dated 1 October 2007.

3. 18/04384/APP - PERRYFIELD, NEW ROAD, DINTON

RESOLVED –

That the application be **Approved** as per officer report.

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Report to Development Management Committee

Workload and Performance Review for Quarter October to December 2018

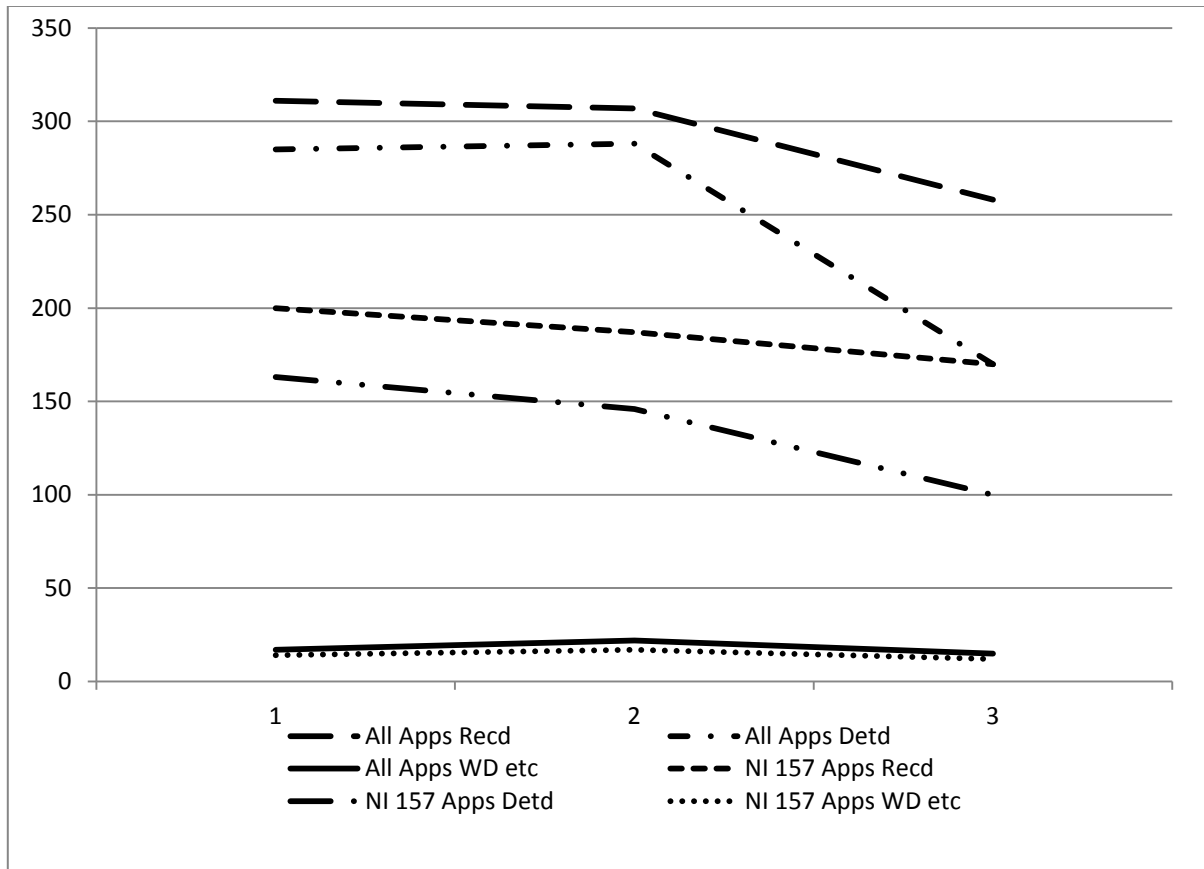
Introduction

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

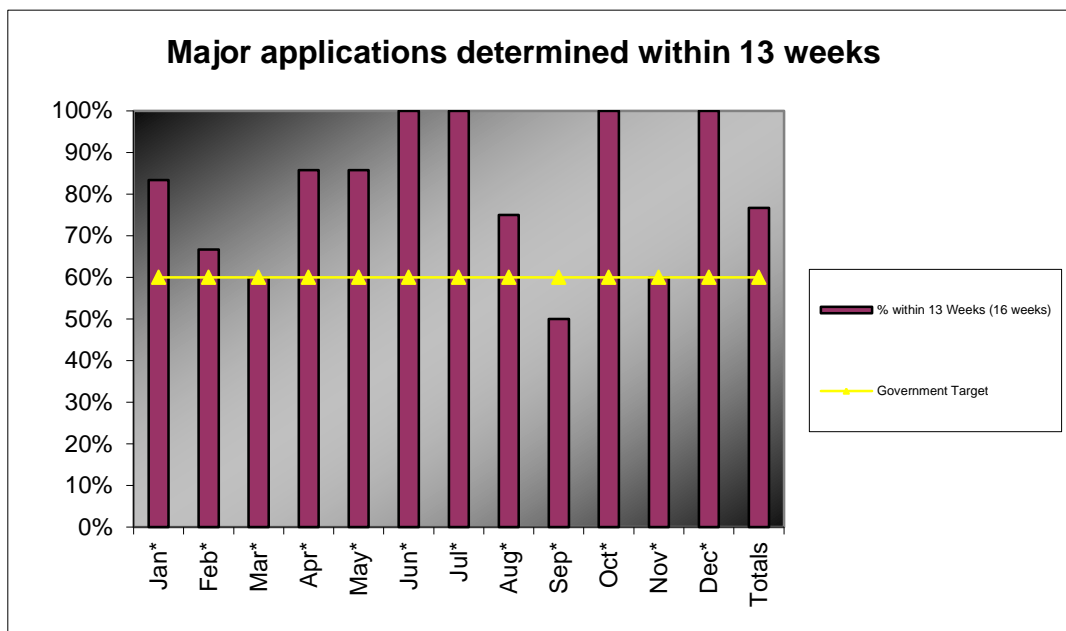
Major Applications Determined: 12
 Minor/Other Applications Determined: 397

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%

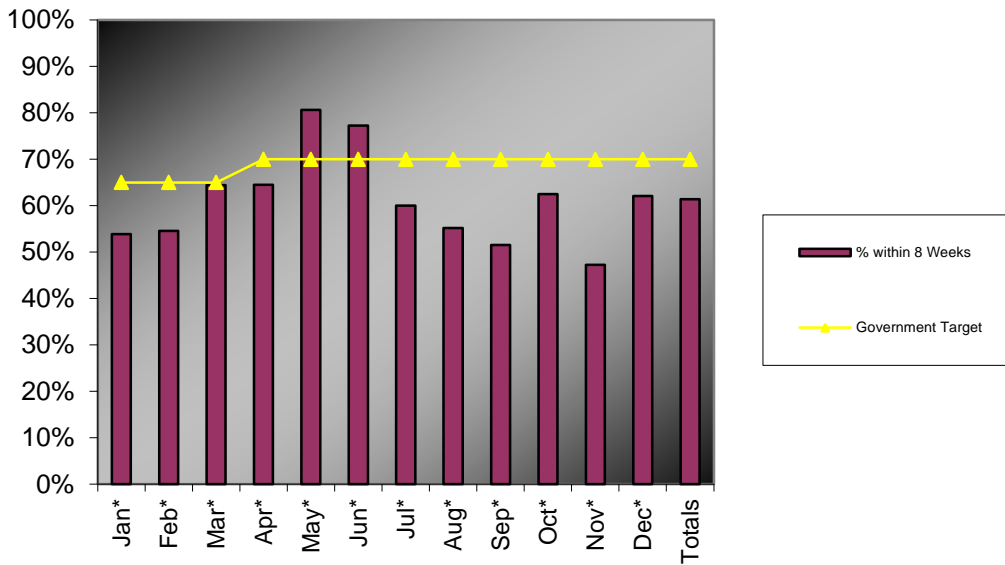
*Including extensions of time & PPAs

The quarterly performance achieved are:

October to December: 83%

Rolling 2 year average: 79%

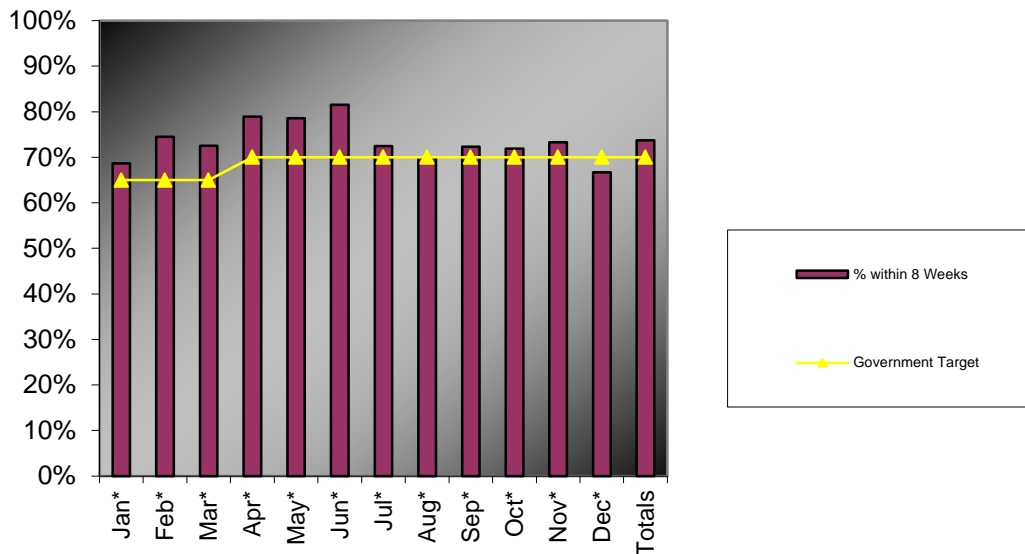
Minor applications determined within 8 weeks



	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	
<p>Note:</p> <p>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.</p> <p>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.</p> <p>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.</p>	

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	
<p>Note:</p> <p>The main issue in this appeal was the effect of the proposed extension and garage on the character and appearance of the area.</p> <p>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.</p> <p>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</p>	

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 existing 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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COMMITTEE SITE VISIT App No. 18/01731/APP

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

Land Off Brill Road Oakley Buckinghamshire

At the previous Committee Meeting: 14th March 2019

Officers Recommendation: Approval

Late Items:

A corrigendum was attached to the report regarding late representations, and follow-up response from Transport for Buckinghamshire in relation to drainage onto the highway, indicating they were satisfied with the remedial works that had been undertaken and had no outstanding concerns at that time, along with further corresponding additions to the evaluation.

A further late item was verbally relayed by the presenting officer, providing a more detailed response from Buckinghamshire County Council SuDs team regarding the reported drainage concerns raised in representations. This was summarised as: When the issue was first brought to the attention of the Strategic Flood Management team, the site was reviewed against the BCC Land Drainage Enforcement Policy, and as it did not meet the criteria set out within the policy no further investigations were undertaken. Since this issue did however result in flooding on the highway, the issue was referred to the Highways Authority, and as advised in the corrigendum, they are satisfied with the remediation works that have been completed.

Public Speakers:

The Committee was addressed by Cllr David Cherry of Oakley Parish Council, who raised the following issues:

- The Parish Council considers the development is contrary to policies RA8, GP34, GP35, GP77 of AVDLP and paragraph 170 a) and b) of the NPPF.
- It detracts from the rural character of the AAL and the openness and rural character of the open countryside.
- Test not just whether impacts on the wider AAL but whether it complies with relevant policies and NPPF.
- Policy RA8, AALs given high level of protection and adverse effects should not be permitted.
- Policy GP34 requires development to respect the environmental qualities of the area.
- Policy GP35 requires development to respect the physical characteristics of the area.
- Paragraph 170 requires development to protect and enhance valued landscape.
- Consider it is clear that covering with hardstanding does not comply with these policies.
- Officer recognises it is not visually pleasing.

- Asked members to refuse.
- The development will become more visible because the fence (which was subject of a separate application, which has been refused planning permission) will be removed; and the applicant cannot be compelled to replace it with anything.
- There is still flooding of the site, the applicant's own land, due to ditch filled in.
- The use stated is not authorised, the proposed use is not agricultural and use of a field for horse related activities would need permission.
- The hardstanding serves no purpose.
- Concerned approval of the development would reduce ability to resist further development of the site in the future, including for siting of caravans.

The Local Member, Cllr Rand, raised the following issues in opposition of the proposal:

- The development causes permanent harm to the AAL and detracts from the rural character, contrary to RA8.
- Contrary to AVDLP policy RA2.
- Paragraph 10.29 of AVDLP (*text in support of policy RA9*) states that development in the countryside should benefit economic activity and maintain or enhance the environment and that if agricultural land is developed, it is seldom practicable to return it to best quality agricultural land.
- Contrary to AVDLP paragraph 10.9 (*text in support of policy RA3*) which states "Where changing the use of the land in question from agricultural is considered acceptable in principle, the Council will require submission of details of proposed boundary treatment and any planting proposals, and permitted development rights for additional structures or hard surfaces may be withdrawn by condition."
- Removal of the fence will make the development more visible.
- The proportion of the site laid for hardstanding versus grazing is out of proportion.
- Contrary to policy GP77 and emerging policy C2 as harmful to the character and openness of the landscape; acknowledges limited weight of C2.
- The NPPF requires a landscape character assessment of the development, which has not occurred.

Site Visit: 19 March 2019 At: 10.30am

Those Attending: Members: Cllrs: Cooper, Bond

Local Member: Cllr Rand

Apologies: Cllrs: Mrs Glover, Town

Officers: Mrs Claire Bayley and Mrs Rebecca Jarratt

Features inspected:

Members met on the site, centrally on the hardstanding. Officers described the development, pointing out the existing boundary treatments, including the permitted fences to the rear and side, the retained hedgerow and unauthorised fence to the highway / front boundary. Members noted the existing hardstanding material laid, the existing hedge and standing water on the site.

The party moved into the area indicated as grass on the plan; Members noted the ground in this area was currently bare earth, and the extent of the hardstanding visible from that area. Members noted green waste piled on the bare earth, officer's confirmed commercial use of the site was not part of the proposal, and Cllr Rand commented that he had been advised that commercial waste brought onto the site would be a matter for Bucks County Council as the Waste Authority, and he has been in discussion with them. Members noted a distant house on the ridge; officers pointed out the location of public rights of way. Officer's confirmed for members that laying of some additional material, amount to that necessary to finish off the surface of the area indicated on the plans would be permitted if the application was approved.

The party left the site through the access and viewed the site from the verge on the opposite side of the road, in the vicinity of the site entrance. Members noted what was visible of the hard standing through the gate/entrance. The party then walked down the hill to view the site from the vicinity of the southern point, opposite the end of the unauthorised fence. The members noted the extent to which removal of the fence would open up views into the site, and distance to dwellings at the northern end of Oakley.

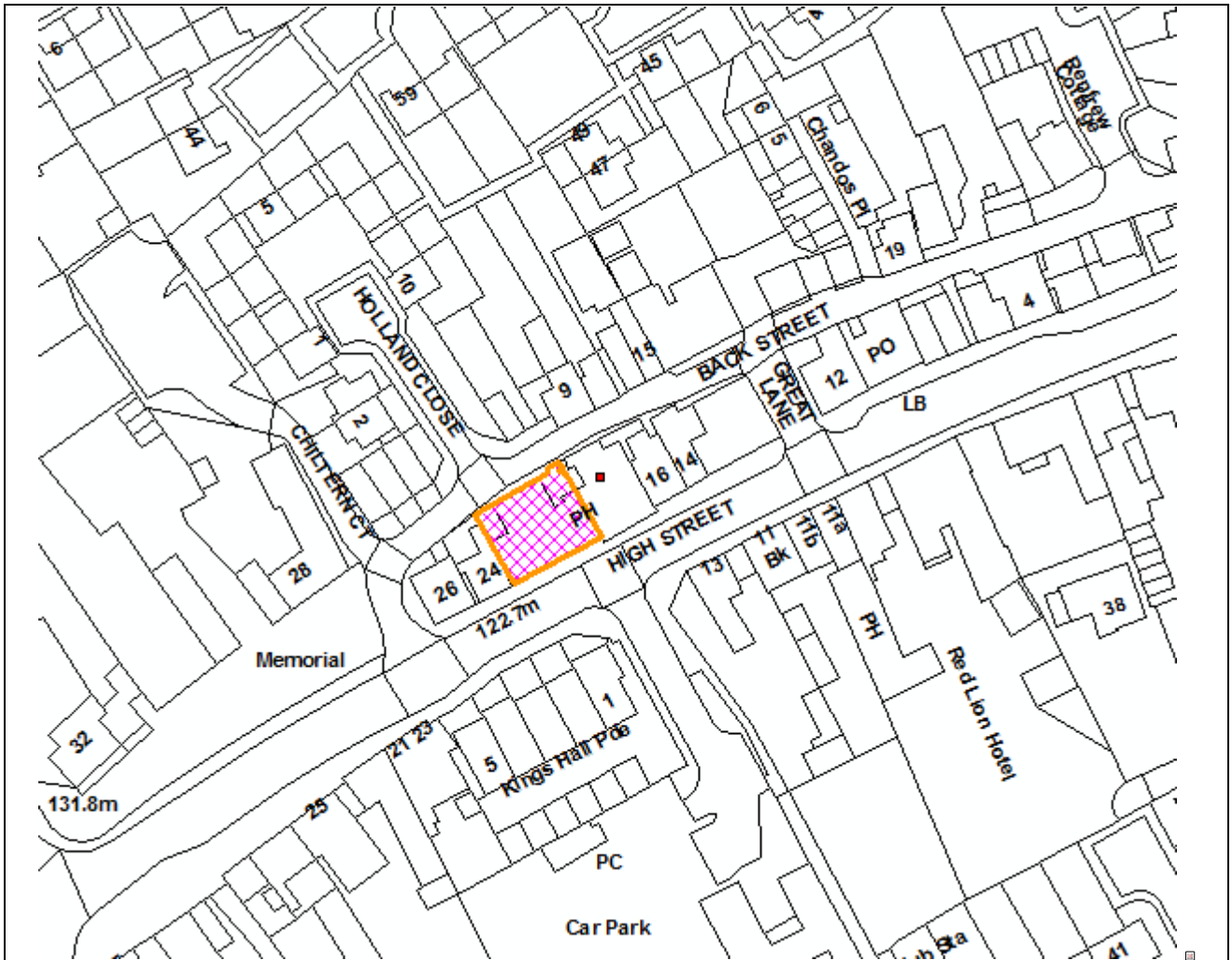
Discussion:

One Member expressed that if they are just looking at the hardstand for supporting an equestrian use, this is not problematic in itself. However, the loss of the fence would cause a problem in terms of views into the site. This could be resolved if the replacement of the fence with an appropriate treatment, a mixed hedge, could be secured and its provision enforced to reduce views from the road. No problems from distant view, no nearby footpaths, in terms of wider landscape impact. They could see no reason to refuse the development.

One member stated that they would not support the use of the land as a commercial yard, and that there was little evidence on site of any equestrian use of the land. They expressed that there would be a need for enclosure of the site, and if the fence were removed this would need to be replaced with something appropriate. However, what is the harm of the hardstanding if it cannot be seen from anywhere. The member expressed that this would be ok if for equestrian use but not for commercial.

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18/03244/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/03244/APP	WENDOVER The Local Member(s) for this area is/are: -	14/09/18
RETENTION OF FLUE AND COWL, LUCCA, 20 HIGH STREET, HP22 6EA MR SIMON DENNIS	Councillor Steve Bowles Councillor Peter Strachan Councillor Richard Newcombe	
STREET ATLAS PAGE NO.131		

1.0 The Key Issues in determining this application are:-

- a) Impact on appearance and character of the property, street scene and wider area
- b) Impact on the character and appearance of the conservation area and the setting of the listed building
- c) Impact on the amenity of neighbouring occupiers
- d) Other matters

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

1.0 Conclusion and recommendation

- 1.1 The material considerations of the current retrospective application for the installation of a flue to the rear of 20 High Street, Wendover, are the impact of the development on the character and appearance of the street scene and the impact on the setting of the conservation area and listed building and the amenity of neighbouring occupiers.
- 1.2 Given that the site is located within a mixed-use area, it is not considered that the flue appears as an incongruous feature. Furthermore, the flue is conservative in size and design and sensitively located in the rear roof slope of the building, and therefore has a limited impact on the character and appearance of the streetscene, the Conservation Area and the host Listed Building.
- 1.3 With regards to the amenity of neighbouring occupiers, whilst the flue produces noise and odours, following investigations by officers of Environmental Health it is concluded that the noise generated from the flue, when restricted at 67.0dB LAeq (5 mins), does not have a materially adverse impact on the amenity of neighbouring occupiers. Furthermore, it has been concluded that the odours experienced from the flue are not frequent or for long enough periods to materially impact on the amenity of neighbouring occupiers. It is therefore concluded that the flue accords with Policies GP.8, GP.35, GP.53 and GP.95 of the Development Plan, the NPPF and guidance as well as sections 66 & 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 1.4 It is therefore considered that the application is **APPROVED**, subject to the following condition:

1. The sound level from the kitchen extraction flue as measured 1.2m above the ground in the rear courtyard and within a 2m radius from the extractor flue as it exits the kitchen must not exceed 67.0 dB LAeq (5 mins).

Reason: In order to safeguard the local amenity and ensure that local residents are protected from adverse impacts associated with noise and in accordance with policy GP8 of the AVDLP and the NPPF.

INFORMATIVES

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 agent was informed of the issues arising from the proposal and given the opportunity to submit amendments/additional information in order to address those issues prior to determination. The agent responded by submitting additional information which were found to be acceptable so the application has been approved.

2.0 INTRODUCTION

- 2.1 The application needs to be determined by committee as the Local Member Councillor Newcombe has requested that the application be heard at committee. Councillor Newcombe reiterated the objection comments raised by a third-party objector which are set out in detail within the report. The main concern of this third-party objection, is that the flue produces levels of noise and odours which are detrimental to the amenity of neighbouring occupiers. The suitability of the flue has also been questioned.

3.0 SITE LOCATION AND DESCRIPTION

- 3.1 The application relates to a Grade II Listed Building which is located within a row of listed buildings (not including property no. 26). The site is also located within the designated Wendover Conservation Area. The property is sited within a prominent location located on the northern side of the High Street, opposite the road to the public car park and library. The building has a rendered frontage painted cream, under a red clay plain tile roof. The frontage lies within the 'key shopping frontage' and the site is within 'Central Commercial Area'. Its frontage is directly adjacent to the highway footpath. Similarly, the rear of the building runs directly adjacent to the highway (Back Street). The frontage slopes dramatically where it is higher on the western side. The rear however is on a levelled ground. The building has a 2 storey and single storey rear extension. The flue is located to the rear of the property and fronts onto Back Street. The surrounding area features a mixture of uses due to its central location on the high street. There are residential properties to the rear and adjacent to the west.

4.0 PROPOSAL

- 4.1 The current application is for the retention of the flue and cowl, which is located on the western roof slop of the single storey rear element of the building. The flue projects approximately 0.95m above the existing single storey roof slope and has been painted black. For completeness, the flue replaced two flues that were located on the same roof slope previously.

5.0 RELEVANT PLANNING HISTORY

- 5.1 00/00411/ALB - External lighting to front elevation and general maintenance/repairs – consent granted
- 5.2 03/00749/ALB – Internal alterations including timber frame lining and partition with brick infill to walls – consent granted
- 5.3 03/00750/APP & 03/00751/ALB - Erection of bin store, gates and timber pergola – consent and planning permission granted
- 5.4 05/03102/ALB & 06/00184/AAD - Replacement of existing signage with two fascia signs and one projecting sign – Consents granted
- 5.5 07/01533/ALB - Replacement of canopy over front door – Consent granted
- 5.6 18/03245/ALB - Retention of flue and cowl- Pending Consideration

6.0 PARISH/TOWN COUNCIL COMMENTS

- 6.1 Wendover Parish Council- Objects to the application and has the following comments to make;

“The cowl should be rotating and the flue needs to be higher. The Environmental Policy needs to be taken into consideration and the fact that Lucca is a listed building. WPC have already advised AVDC that the do not like to see retrospective applications.”

7.0 CONSULTATION RESPONSES

7.1 Environmental Health Officer

- 7.2 Following complaints from residents and a subsequent investigation, the Environmental Health Team have been working with the current occupier of this building to ensure that there is no statutory noise nuisance associated with the use of the kitchen extraction system. It has been concluded by the officer that the flue has an acceptable impact on the amenity of nearby uses so long as the noise from the flue does not exceed 67.0 dB LAeq (5 mins). As such, the officer has recommended a condition to ensure that the noise from the flue does not exceed this level.

- 7.3 The officer has also provided a justification for the height of the flue. It is appreciated that normally for sites the team are not familiar with they would ask for flues to terminate 1 metre above the eaves of any building within 15 metres. However, the officer notes that they have visited this property a number of times over the past two years in response to complaints and they have not established a significant problem in relation to odour. As such, given their local knowledge in relation to these premises, the height of the flue is not objected to by the officer.

- 7.4 The Environmental Health team have visited 24 High Street, Wendover on 9 occasions between September 2017 and August 2018 to witness reports about odour, including one visit since the alterations were made to comply with the noise abatement notice. On a small number of these occasions' odour has briefly been witnessed in the rear garden, however it was not frequent or for long enough to contribute adversely to occupiers of 24 High Street. The team have never witnessed cooking smells inside the property.

7.5 Heritage and conservation

To the rear of the building is Back Street, which to one side are the rear extensions (modern and historic) and service blocks of the buildings fronting the High Street. This side of the street suffers from a proliferation of clutter such as satellite dishes, air condition units and external vents. On the other side of Back street is a mixture of historic and modern development.

7.6 The age of the single storey kitchen extension has not been confirmed, however the position of the flue through the roof replaces that of a previous and therefore there is no impact to the fabric of the building.

7.7 The heritage officer states that whilst an external flue/cowl is not ideal, these type of systems are a necessity of current commercial kitchens such as Lucca's and the viable use of the listing building is a consideration in planning terms. Examining the existing external part of the system being considered as part of the application it is noted it is small in scale, sits beneath the ridge and has been painted black (from galvanised steel) to reduce its negative aesthetic impact to an acceptable level.

7.8 The officer concluded that the scale and appearance of the proposed flue/vent is considered acceptable within the street scene of Back Street and would therefore preserve the identified heritage assets.

7.9 Archaeology

Have consulted the Buckinghamshire Historic Environment Record (HER) and conclude that this proposed development would not affect a heritage asset recorded on the HER. Also, on present evidence, the application site is not thought to have significant potential to include as yet unidentified heritage assets of archaeological interest.

7.10 Buckingham and River Ouzel Drainage Board

No comments to make on the application

8.0 REPRESENTATIONS

8.1 Comments have been provided by a consultant acting on behalf of residents and there are 11 objection comments on the case file for the application from 5 objectors. Their concerns are listed below:

- The new extraction unit creates problems regarding noise and odours which were not experienced with the previous unit. The noise and smells are experienced in neighbouring properties gardens and within the properties and along Back Street.
- The noise level 67.0 dB LAeq (5 mins) is too high and is contrary to Local and National Policy. It is necessary that the applicant be required to assess the extract equipment fully in accordance with BS 4142:2014.
- The condition that was initially proposed by the Environmental Health Officer did not specify the distance from the equipment nor the measurement height to which 67.0 dB LAeq (5 mins) applies.
- Third parties would have no rights of access to the courtyard where the condition applies. Therefore it may not be possible to carry out sound measurements to verify that the target noise level required under the condition has actually been achieved.
- The measures that have been put in place to reduce the noise of the flue through the Noise Abatement Order have exacerbated the odours from the flue.
- The height of the flue is not appropriate.

- The flue does not work properly.
- A number of issues unrelated to the case have also been raised with regards to the application, including; noise from the air conditioning units, unlawful installation of CCTV cameras and lighting on the building and noise from the premises in general.

9.0 EVALUATION

9.1 The application has been assessed against the Aylesbury Vale District Local Plan (AVDLP) (2004), the National Planning Policy Framework (NPPF) and the Planning (Listed Building and Conservation Areas) Act 1990. It is acknowledged that Wendover is in the process of creating a Neighbourhood Plan and this is currently being consulted on in accordance with regulation 14 The Neighbourhood Planning (General) Regulations 2012. Since the Neighbourhood Plan is not 'made' it does not have sufficient weight at this stage and will not be used to assess the application.

Impact on appearance and character of the property, street scene and wider area

9.2 Policy GP35 of the Aylesbury Vale District Local Plan (AVDLP) states that the design of new development proposals should 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.

9.3 The frontage of the building would remain unchanged, the only external alteration would be the provision of the extraction flue which would be positioned to the rear of the property, which would not be visible from the High Street. It is acknowledged that the flue would be visible from Back Street, however by virtue of its low position, colour and form it would not be visible in the wider street scene nor overly prominent in views from Back Street. Given that the property is located on the high street, within the central shopping area, with a mix of surrounding uses, there are other similar features (flues, air conditioning units) visible from Back Street. It must also be noted that the previous flues were considered to be bulky in design and of poor condition and the singular flue significantly reduces the amount of roof area used.

9.4 As such, in this context and on the basis of the external parts of the structure being modest and finished in black, the flue is not considered to be an incongruous feature within this area and as such the development would accord with AVDLP policy GP35.

Impact on the character and appearance of the streetscene, the conservation area and the setting of the listed building

9.5 AVDLP Policy GP35 requires, that all forms of development should complement the physical characteristics of the site and its surroundings, the building tradition of the locality, and the scale and context of the setting.

9.6 Policy GP53 of the AVDLP states, that proposals for development will not be permitted if they cause harm to the character or appearance of Conservation Areas, their settings or any associated views of or from the Conservation Area. However, Policy GP53 is not entirely consistent with the NPPF on this ground, in so far as it does not go on to comment whether the proposal would result in substantial or less than substantial harm that needs to be outweighed by the public benefits of the scheme. As such, Policy GP53 cannot be given full weight, although moderate is still considered appropriate as part of the planning balance.

9.7 The NPPF at paragraph 192 emphasises the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that the conservation of heritage assets can make to sustainable communities, and the desirability of new development making a positive contribution to local character and distinctiveness.

- 9.8 Paragraph 193 and 194 advise that, when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. Any harm or loss should require clear and convincing justification.
- 9.9 While it is noted that external flues/cowls are not preferable features on Listed Buildings or within Conservation Areas, it is appreciated that these types of systems are a necessity of current commercial kitchens like that found in the application property and integral to the viability of the business operation. The flue, in this instance is small in scale, sits beneath the ridge of the single storey structure and has been painted black. These features mitigate the impact of the flue on the Listed Building and wider Conservation Area such that the significance of the listed building and conservation area would be preserved.
- 9.10 It is further noted that the flue the subject of the current application is visibly less intrusive than the previous dual flue that was located on the same roof slope and this should be given significant positive weight towards the assessment of the visual impact of his flue.
- 9.11 The application has been reviewed by the Local Authority's Heritage officer, who concluded that the scale and appearance of the proposed flue/vent is considered acceptable within the street scene of Back Street and the context of the application property and would, therefore, preserve the identified Designated Heritage Assets.
- 9.12 Special attention has been paid to the statutory test of preserving or enhancing the character or appearance of the conservation area under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, and 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 are accepted as a higher duty. It has been concluded that the development would preserve the character and appearance of the conservation area and that the setting of the listed building would be preserved and so the proposal accords with section 66 & 72 of the Act.
- 9.13 In addition, on the basis that no greater harm would be caused to the significance of the heritage asset than the double flue that was removed to make way for the current flue, the proposal accords with policy GP35 and GP53 of the AVDLP and the guidance contained within the NPPF.

Impact on the amenity of neighbouring residents and uses

- 9.14 Policy GP.95 states, that in dealing with all 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.
- 9.15 Policy GP.8 states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal. Where planning permission is granted, the Council will use conditions or planning obligations to ensure that any potential adverse impacts on neighbours are eliminated or appropriately controlled.
- 9.16 Paragraph 127 of the NPPF seeks to ensure that developments create places with a high standard of amenity for all existing and future occupants.
- 9.17 In order to assess the impact of the flue on the amenity of neighbouring occupiers, it is important to assess the extent to which the proposal would exacerbate any adverse effects. It must be appreciated that noise from units such as flues is entirely typical within local centre locations, such as Wendover High Street, and having regard to the fact that historically this area has featured a mix of uses. Notwithstanding this, the application site is located on the High Street and while the flue is to the rear of the building background noise from the High Street is still audible from this location. The flue is approximately 3.5m from the shared boundary with property no. 24 High Street. From this property, the

Environmental Health officer found that traffic noise exceeded the noise of the fan during the majority of the day. Using the results from the Environmental Health investigation it was found that the flue has an acceptable impact on the amenity of neighbouring occupiers, so long as the noise from the flue does not exceed 67.0 dB LAeq (5 mins).

- 9.18 The consultant acting on the behalf of the local objectors has stated that the noise level 67.0 dB LAeq (5 mins) is too high and is contrary to Local and National Policy. They have also stated that it is necessary that the applicant be required to assess the extract equipment fully in accordance with BS 4142:2014. The Environmental Health Officer has maintained that in order to make a judgement about the impact developments would have on amenity, PPG firmly signposts to the Noise Policy Statement for England (NPSE). This document confirms that the level in which noise mitigation is required occurs at the point in which the noise starts to cause small changes in behaviour and or attitude (e.g. turning up the volume of the TV or having to speak more loudly, sleep disruption etc). This is classed as the Lowest Observed Adverse Effect Level (LOAEL). In the officer's view, these negative impacts do not occur as a result of the extraction fan being turn on. While it is acknowledged that the fan can be heard, and the test results confirm this, it is considered that the effects of the fan noise are not sufficient to cause any change in behaviour in the context of the wider noise environment - being a town centre location next to a number of commercial operations and a busy high street. Furthermore, the noise monitoring results inside the kitchen with the extraction fan on are below the level set by the World Health Organisation (WHO) which states that moderate annoyance can be expected if the noise level exceeds 35dB during the daytime. The internal level recorded during our monitoring are around 7dB lower than this. As such it is concluded by the officer that there is No Observed Adverse Effect Level (NOAEL) as a result of the extraction fan noise. As a result (in the context of NPPF 2018), PPG and NPSE confirm that no further mitigation is required or necessary under planning and that the noise level of 67.0 dB LAeq (5 mins) is appropriate.
- 9.19 The consultant also raised the issue that third parties would have no rights of access to the courtyard where the condition applies and therefore it may not be possible to carry out the sound measurements to verify that the target noise level required under the condition has actually been achieved. It has however been confirmed by the Planning Enforcement Team that officers have specific powers of entry in order to check compliance with planning conditions and should future information suggest that this condition is not being complied with a visit to the premises will be made to confirm/deny this and appropriate action taken
- 9.20 Given that the flue is entirely typical of its location, and having regard to the investigation carried out by the Environmental Health team, it is considered that noise generated from the flue would not exacerbate noise nuisances in this area, on the condition that noise levels would not exceed 67.0dB, and would not therefore materially harm the amenity of neighbouring occupiers, in accordance with Policy GP.95 of the AVDLP.
- 9.21 It has been reported by objectors that the odour from the flue has become a greater nuisance since controlling the noise from the flue. The representations have noted that cooking smells have been witnessed in nearby properties and on Back Street. The Environmental Health officer states that on a small number of visits to the property' odour has briefly been witnessed in the rear garden area of adjoining neighbour no.24; however, it was not frequent or for long enough to contribute adversely to occupiers of this property. The team have never witnessed cooking smells inside the property. This is corroborated by the fact that a number of the objectors note that the odours experienced from the flue are not a constant nuisance and instead are noticeable at intervals throughout the day.
- 9.22 It is appreciated that during the times that the odours are detectable, this may have an impact on the amenity of residents. However, it must be reiterated that this is a town centre location with a mix of uses, where standards of amenity reflect a commercially active area, rather than standards of a solely residential area; and therefore, where noises and smells

are likely to occur. Notwithstanding this, by virtue of the fact that there is not a continuous odour associated with the flue the impact is not considered to be material to the amenity of nearby occupiers and would not warrant a reason for the refusal of the application.

- 9.23 The suitability of the height of the flue has also been raised through the representations. It is appreciated that normally flues are required to terminate 1 metre above the eaves of any building within 15 metres. However, the Environmental Health Officer notes that the Environmental Health Team have visited this property a number of times over the past two years in response to complaints and they have not established a significant problem in relation to odour. As such, given their local knowledge in relation to these premises, the height of the flue is not objected to by the officer.
- 9.24 Whilst it is acknowledged that the flue can be heard from nearby properties and Back Street, and does produce limited and intermittent odours, these effects are typical of a high street location. Following the investigations carried out by the Environmental Health officer, officers are satisfied that the noise generated from the flue would not materially harm the amenity of neighbouring occupiers, subject to a condition. Furthermore, it is not considered that the odours produced by the flue are frequent enough or for long enough periods to contribute adversely to amenity of neighbouring occupiers. It is therefore considered that the proposal would accord with Policy GP8, GP.95 of the AVDLP and paragraph 127 of the NPPF.

Other matters

- 9.25 A number of issues unrelated to the case have also been raised with regards to the application, including; noise from the air conditioning units, unlawful installation of CCTC cameras and lighting on the building and noise from the premises in general.
- 9.26 These issues are not material considerations that should be taken into account for the assessment of this application.

Case Officer: Hannah Mitchell

Telephone No:

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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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