



## AYLESBURY VALE DISTRICT COUNCIL

### Democratic Services

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7 May 2019

### DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of the **Development Management Committee** will be held at **2.00 pm** on **Wednesday 15 May 2019** in **The Diamond Room, Aylesbury Vale District Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF**, 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, R Newcombe, 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. OVERVIEW REPORT - MAY 2019** (Pages 3 - 12)

**5. REPORT OF THE CORPORATE PLANNER**

**6. 19/00498/APP - 6 MARKET HILL, WHITCHURCH** (Pages 13 - 28)

Replacement of an existing single storey side extension with a two storey extension and the alteration to the eastern boundary wall.

Case officer: Alice Culver

**7. 19/00499/ALB - 6 MARKET HILL, WHITCHURCH** (Pages 29 - 40)

Removal of modern extension from garden boundary wall in the curtilage of neighbouring listed building and reinstatement and restoration of this section of the wall.

Case officer: Alice Culver



**8. 18/02618/APP - 11 THE GREEN, MENTMORE (Pages 41 - 52)**

Erection of new shed/summerhouse and fence (Part Retrospective)

Case officer: Bibi Motuel

**9. 18/04264/APP - TITTERSHALL LODGE, KINGSWOOD LANE, WOTTON UNDERWOOD (Pages 53 - 68)**

Variation of condition 4 of planning permission 14/02604/APP to vary the wording of this condition to state that the building hereby approved shall only be used as a shooting lodge in connection with game shoots, simulated shoots and clay pigeon shoots operated on and from the land and the use of two rooms for overnight accommodation for clients attending shooting events, and no other purpose including, but not limited to, retail sales to members of the public other than those attending shooting events, or as a venue for hire.

Case officer: Diana Locking

**10. 15/02242/AOP - LAND BETWEEN COBB HALL ROAD AND DRAYTON ROAD, NEWTON LONGVILLE (Pages 69 - 96)**

Outline planning application for the erection of 6 two-bed and 9 three-bed dwellings, new access and associated parking

Case officer: Claire Bayley

**11. SITE VISIT ARRANGEMENTS**

**12. HUMAN RIGHTS ACT (Pages 97 - 98)**

**13. SPEAKERS LIST (Pages 99 - 100)**

## **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-date<sup>7</sup>, 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 proposed<sup>6</sup>; 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 required<sup>9</sup> 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 (April 2019)
  - 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 which is regularly updated. It also updates the estimated delivery of sites based on the latest information. The latest Five Year Housing Land Supply Position Statement was published April 2019, based on March 2018 data, which shows that the Council can demonstrate 5.64 years worth of deliverable housing supply against its local housing need. This calculation is derived from the new standard methodology against the local housing need and definition of deliverable sites set out in the NPPF and NPPG.
- 1.25 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*

- 1.26 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 policies<sup>16</sup>.
- 1.27 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.
- 1.28 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.

- 1.29 Further advice is also set out in the NPPG.

### *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**

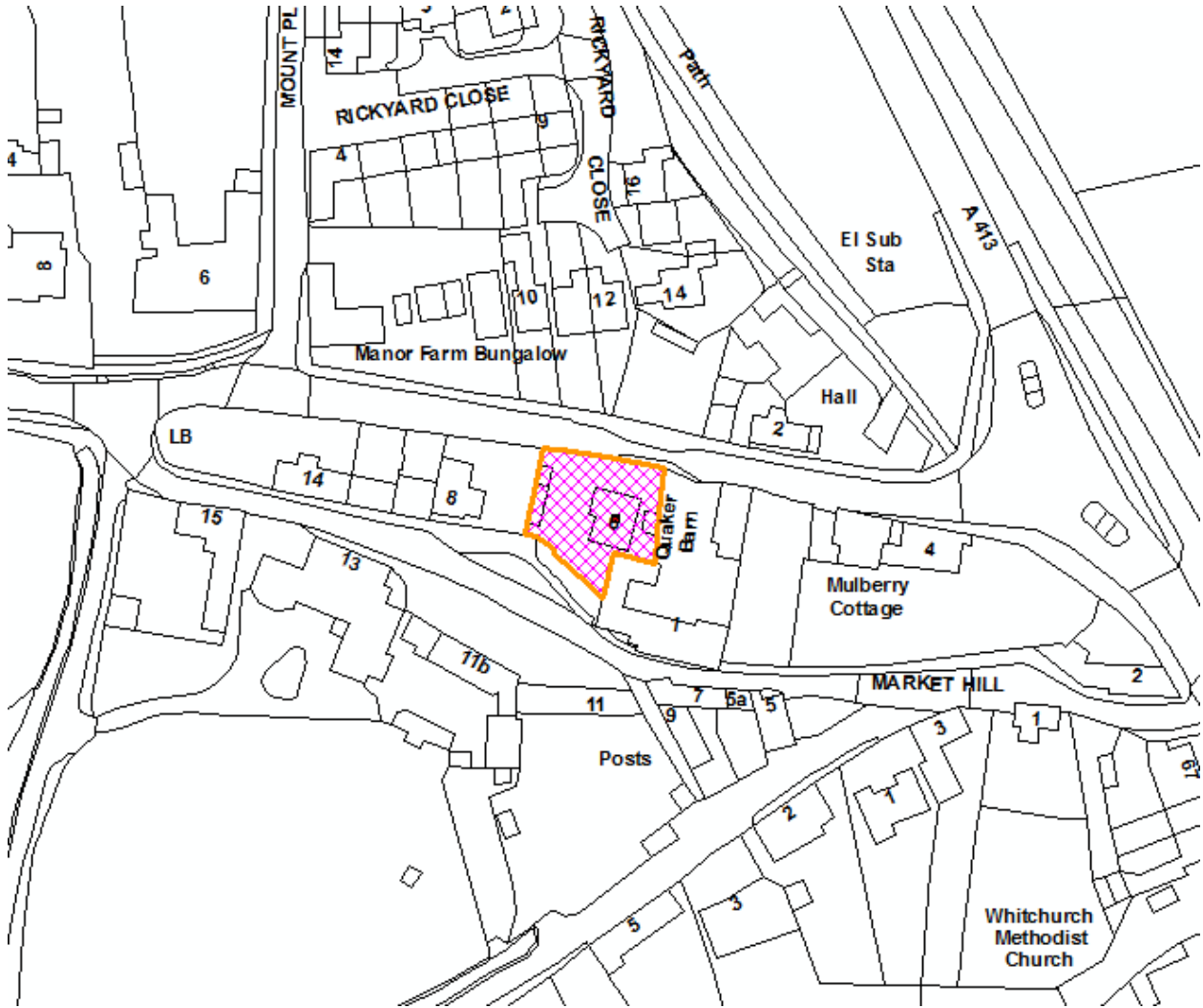
- 1.57 All of these matters, including housing land supply and delivery will need to be taken into account in striking an overall planning balance..

### **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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19/00498/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
19/00498/APP	WHITCHURCH The Local Member(s) for this area is/are: -	13/02/19
REPLACEMENT OF AN EXISTING SINGLE STOREY SIDE EXTENSION WITH A TWO STOREY EXTENSION AND THE ALTERATION TO THE EASTERN BOUNDARY WALL. 6 MARKET HILL HP22 4JB MR & MRS CULL	Councillor Mrs J Blake	
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**1.0 The Key Issues in determining this application are:-**

- a) Impact on appearance and character of the dwelling-house, street scene and wider area**
- b) Impact on the setting of the Whitchurch Conservation Area and nearby Listed Buildings**
- c) Impact on Residential Amenity**
- d) Impact on Highways & Parking**
- e) Other Matters**

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

**Conclusion and recommendation**

1.2 The proposal is considered to be of a scale and form that respects the character and appearance of the existing dwelling and would not appear as overly prominent within the local area. The proposal would preserve the setting of the Whitchurch Conservation Area and the nearby Listed Buildings. In addition, the proposed extension would not impinge on the amenity of neighbouring dwellings in accordance in compliance with the Design Guide on Residential Extension and in accordance with policies GP8, GP9, GP35 and GP53 of

the AVDLP and the NPPF. Additionally, the proposal would satisfy the Council's SPG Parking Guidelines.

- 1.3 It is therefore recommended that the application be **APPROVED** subject to the following conditions:

**Conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The materials to be used in the development shall be as specified on the submitted application form. Please also see note on the back of this notice.
3. Notwithstanding the approved materials, no development shall take place above slab level until details of the proposed timber cladding to be used on the surfaces of the extension have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials. Please also see note no. 5 on the back of this notice.
4. No development shall commence until a sample panel for the proposed bricks and mortar has been constructed on site and approved in writing by the Local Planning Authority. The development shall thereafter take place only in accordance with the approved details. Please also see note no. 5 on the back of this notice.
5. No development shall commence until details of the Capping Brick to be used on the development has been submitted to and approved in writing by the Local Planning Authority. Please also see note no. 5 on the back of this notice.
6. The scheme for parking, garaging and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

**Reasons:**

1. To comply with Town and Country Planning Act and Section 51 of Planning and Compulsory Purchase Act.
2. 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. This is required prior to the commencement of development given the small scale nature of the development.
3. 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. This is required prior to the commencement of development given the small scale nature of the development.

4. RE13 - To ensure that the proposed works can be affected without detriment to the special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.
5. RE13 - To ensure that the proposed works can be affected without detriment to the special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.
6. Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to comply with the National Planning Policy Framework.

## **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 so it has therefore been dealt with without delay.

## **2.0 INTRODUCTION**

- 2.1 Whitchurch Parish Council raised material planning objections to the scheme and indicated that they wish to speak at committee. Whitchurch Parish Council raised objections relating to the height of the proposed extension having a significant impact and overshadowing the neighbouring dwelling. The Parish Council also raised concerns over the position of a new opening within the proposed extension which would overlook the neighbour more than it is at present.
- 2.2 The Local Member requested that the application be considered by the Committee. The comments received from the Local Member are appended to this report and a summary of their comments are provided below:
  - Concerns over the previous advice received from the AVDC Heritage Officer, in relation to the previous application on the site. Whilst it is noted that the current application has been amended from that submitted in 2017, however, it carried with it the same detrimental effects in respect of the adverse impact on the amenity of Quaker Barn.



- Concerns regarding the proposed extension causing damage to the historic boundary wall, including the foundations of the foundations of the neighbouring property
- Impacts on residential Amenity

2.3 It is considered that the proposed two storey side extension continues to respect the character and appearance of the existing dwelling and would not appear as overly prominent within the local area, or when viewed from the neighbouring dwelling. The proposed opening on the eastern elevation of the existing would not give rise to any direct overlooking into any habitable rooms within the residential dwelling located to the South East of the site. The proposed window on this elevation would be located 1.74m above finished floor level, and should views be achieved from this opening would face onto the driveway, an ancillary outbuilding and beyond this a section of the garden area of the neighbouring site. It is considered that due the to outlook from this window and the orientation of the dwelling the scheme would comply with the AVDC Design Guide on Residential Extensions and would accord with policies GP35, GP9 and GP8 and Aylesbury Vale District Local Plan.

### **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The application site relates to a detached, two storey dwelling located on the northern side of Market Hill, Whitchurch. The dwelling is constructed of brick, painted white, and a tiled gable roof. The property is 'L' shaped in form and has previously been extended, in the form of a single storey side extension to the eastern side of the dwelling. This extension was built in the 1970s which provided a boot room, utility and cloakroom and forms part of the boundary wall along the eastern boundary of the site. The front elevation of the dwelling is characterised by a small front porch, with an area of soft landscaping to the front of the dwelling.
- 3.2 To the north of the host dwelling lays Oving Road which includes residential dwellings to the rear of the site and east of the site. To the west and south east of the site lays further residential dwellings along Market Hill.
- 3.3 The site benefits from a detached garage which is located to the western side of the site, set back from the highway by 12.8m. The site includes an area of hardstanding to the front of the detached garage, providing space for three vehicles.
- 3.4 The application site falls within the Stewkley Conservation Area and the Quainton-Wing Hills Area of Attractive Landscape. In addition, there are a number of listed buildings surrounding the site, located along Market Hill and Oving Road.

## **4.0 PROPOSAL**

- 4.1 This application seeks permission for the replacement of the existing single storey side extension with a two storey side extension and the alteration to the eastern boundary wall.
- 4.2 The proposed extension will be located to the eastern side of the dwelling. The existing extension will be removed, which is currently built into the boundary wall to the east of the site. There is a separate listed building consent application to cover these works (Ref 19/00499/ALB). The garden wall is proposed to be reinstated and restored to match the existing.
- 4.3 The proposed extension will project 4.3m from the side of the dwelling and 6.4m in depth. The extension will have an eaves height of 2.3m and a maximum height of 5.6m. The proposed extension has been set down from the ridge of the host dwelling by 2.3m.
- 4.4 The extension will be finished in materials to match the host dwelling and timber cladding, the extension will include openings on the southern, eastern and northern elevation.
- 4.5 The number of bedrooms will be increased as a result of the scheme, leading to a four bedroom dwelling.

## **5.0 RELEVANT PLANNING HISTORY**

- 5.1 78/02225/AV - ERECTION OF UTILITY ROOM AND ENCLOSURE OF PORCH AREAS – Approved
- 5.2 17/02281/APP - Removal of existing rear single storey extension and replacement with a two storey extension. – Withdrawn
- 5.3 19/00499/ALB - Removal of modern extension from garden boundary wall in the curtilage of neighbouring listed building and reinstatement and restoration of this section of the wall. – Pending Consideration

## **6.0 PARISH/TOWN COUNCIL COMMENTS**

- 6.1 Whitchurch Parish Council have objected to this application, as outlined below.
- 6.2 “The height of the building would have a significant impact and would overshadow the neighbouring property. The proposed position of the new window would overlook the neighbour more than is at present”.

## **7.0 CONSULTATION RESPONSES**

- 7.1 Buckingham and River Ouzel Drainage Board – No Comment

## **8.0 REPRESENTATIONS**

- 8.1 4 letters of representations have been received from the occupants of the neighbouring dwelling to the east of the site, Quaker Barn. As summarised below:

- The advice from the Heritage Officer is contrary to previous advice given for the application site, as dated 21<sup>st</sup> July 2017 and 23<sup>rd</sup> March 2018.
- Impact on the setting of the nearby listed buildings.
- The site is on higher ground than Quaker Barn and therefor is noticeable in public views from the highway.
- The proposed extension is equivalent to a 3 storey building being built on the border, which is an historic garden wall, between two properties causing harm to the setting of Quaker Barn, the street scene on Oving Road and neighbouring dwellings.
- Concerns over the existing foundations of the existing extension and the impact this may have on the listed wall to the east of the site. A full assessment of the integrity of the Listed Wall is required along with calculations to substantiate no damage is caused as a result of the increase from the proposed two storey extension.
- There is a high risk that the wall is compromised either during or after construction and potential damage to the listed building and a tree in the Conservation Area.
- The extension would be built close to the listed wall, making maintenance of the wall impossible
- Concerns that the development would not be carried out in accordance with the submitted plans.
- Impact on residential amenity, including loss of light and overlooking
- The extension does not respect the local area, including the nearby listed buildings and Conservation Area.
- The design of the extension does not respect the original building line facing Oving Road nor does it produce an unfettered roof slope.
- The proposed includes to add a boundary fence above the current wall which would add a further material to the listed wall which is made up of stone and brick. The effect of this would make the two dwellings appear semi-detached and would detract from the Listed Building, as viewed from Quaker Barn and Oving Road.
- Inaccuracies in the submitted plans (Not to scale).

## **9.0 EVALUATION**

- 9.1 There is currently no neighbourhood plan in progress for Whitchurch which can be afforded any weight.

**a) *Impact on appearance and character of the dwelling-house, street scene and wider area***

- 9.2 Policy GP.9 of the AVDLP states that proposals for extensions to dwellings will be permitted where they protect character of outlook, access to natural light and privacy for people who live nearby; respect the appearance of the dwelling and its setting and other buildings in the locality; and accord with published Supplementary Planning Guidance on residential extensions and the other policies of the development plan.
- 9.3 Policy GP.35 requires that developments respect and complement the physical characteristics of the site and its surroundings, the building tradition of the locality, and the scale and context of the setting, the natural qualities and features of the area and effect of the development on important public views and skylines.
- 9.4 Section 12 of the NPPF sets out the principles for achieving well designed places.
- 9.5 The AVDC Design Guide suggests that it is always necessary not to over-whelm existing buildings. Once an extension begins to match or exceed the size of the original building the architectural integrity of the original structure tends to become lost. The Design Guide also suggests that all two storey extensions should generally have full pitched roof clad in suitable materials. New roof ridges should not normally exceed the height of the original. A new ridge line which is set lower than that of the original will generally be preferred.
- 9.6 The proposed extension is to be located to the eastern side of the dwelling, replacing an existing single storey side extension. The existing extension is built into the shared boundary wall which runs along the eastern and northern boundary of the site, this wall forms part of the curtilage of the neighbouring Listed Building, Quaker Barn. The proposed extension represents an addition in height and depth compared to the existing single storey side extension, and the extension will project further towards the north of the site.
- 9.7 The extension would be visible from Oving Road which runs to the north of the site, however, would not be highly visible from the highway to the south, Market Hill due to the location of the extension being obscured by the neighbouring dwelling to the south east (Quaker Barn). Oving Road represents predominately red bricked dwellings which have been built in close proximity to the road, including gable features which are built adjacent to the highway towards the eastern side of the road. Along Oving Road and within the immediate area dwellings are constructed of red brick, stone and render. The proposed extension would be partly screened in views when travelling along Oving Road from the east due to the orientation of nearby dwellings and the barn located to the east of the site.
- 9.8 The proposed two storey extension has been set down from the ridge of the host dwelling by 2.3m, and would see an increase in height of 2.2m compared to existing single storey

side extension. The proposed extension represents a modest extension to the host dwelling, which although would be increased in height, has been designed, in line with the design guidance, to appear visually and physically subordinate to the main house. The proposed extension would be modest in size and would increase the footprint of the dwelling by 9m<sup>2</sup>.

- 9.9 It is acknowledged that representations were received regarding the impact of the proposed extension on the appearance and character of the street scene and the host dwelling. The proposed extension would be located where an existing single storey extension is present, it is considered that the addition of a two storey extension in this location which has been designed sensitively to its surroundings would not appear prominent within the street scene. It is acknowledged that the extension would project 2.6m further to the north of the site making this extension more visible from Oving Road, however, it is considered that due to the pitch of the roof and the substantial set down of the extension would ensure the extension does not appear out of place or unduly eye catching when viewed from Oving Road.
- 9.10 The proposed extension is to be finished in materials to match (including clay roof tiles) the host dwelling and would introduce timber cladding to the exterior of the extension, on the eastern elevation. It is felt reasonable to attach a condition to this permission for details of the proposed timber to be submitted to and approved by the Local Planning Authority, this will ensure the finish of the timber cladding used in the development would complement the surroundings.
- 9.11 Policy RA.8 of the AVDLP states that development proposals in areas of attractive landscape should respect their landscape character. Developments that adversely affect this character will not be permitted, unless appropriate mitigation measures can be secured.
- 9.12 The application site falls within the Quainton Wing Hills Area of Attractive Landscape. Due to the nature of the proposal and the relatively built up nature of the surroundings, it is considered that the proposal would be seen in context of the host dwelling and neighbouring properties and would not negatively impact any views within the AAL.
- 9.13 In summary the proposal is considered to be of a scale and design that respects the character and appearance of the existing dwelling and does not overwhelm it. In addition it is considered that the proposal would not appear overly prominent within the street scene or the locality in general. The proposals are therefore considered to comply with GP9, GP35 & RA8 of the AVDLP, the Council's Design Guide on Residential Extensions and NPPF.

***b) Impact on the setting of the Whitchurch Conservation Area and nearby Listed Buildings***

- 9.14 The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 193 states that there should be great weight given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be.
- 9.15 Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.16 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local planning authorities to give special attention to the desirability of preserving or enhancing the character and appearance of that area.
- 9.17 Policy GP.53 of the AVDLP seeks to preserve or enhance the special characteristics that led to the designation of the area. Proposals for development will not be permitted if they cause harm to the character or appearance of the Conservation Area, their settings or any associate views of or from the Conservation Area. Proposals for extensions must respect and complement the character, materials and design details of the structure, the site concerned and its neighbours.
- 9.18 The application site is located within the Whitchurch Conservation Area and also sits within the setting of surrounding listed buildings. Quaker Barn is a Grade II listed building located to the south east of the host dwelling, Quaker Barn includes a detached barn which is also listed. To the north of the site, along Oving Road, lays a Grade II listed dwelling known as No. 2 Oving Road. There are further listed properties located to the east of the site, along Oving Road, and also the south and west, along Market Hill. The Conservation Area and nearby Listed Buildings are designated heritage assets.
- 9.19 The Whitchurch Conservation Area Document outlines the area in which the host dwelling sits, the Conservation Area Leaflet suggests that many of the 17th century timber framed houses in stone or red/brown brick with clay tile roofs in Market Hill and Castle Lane, have been altered and restored. The document suggests that Oving Road, which runs to the north, is different in character with a moderate incline between raised grass banks. The space, closed at either end by the curvature of the street, is lined on each side by buildings of stone or whitewashed brick and linked by stone walls.
- 9.20 The proposed two storey side extension would be visible from the surrounding Conservation Area and in views of the nearby Listed Buildings, namely when viewing the site from Oving Road. It is considered that the design of the two storey side extension

would be appropriate for the Conservation Area and would cause no harm to the setting of the Whitchurch Conservation Area. The proposed two storey side extension has been designed in sympathetic materials and appears as visually subordinate to the main dwelling, therefore, not appearing prominent within views of the Conservation Area.

- 9.21 The proposal includes the replacement of the existing single storey side extension, which forms part of the boundary wall to the east of the host dwelling. This wall forms part of the curtilage of the Grade II listed building, known as Quaker Barn, 1 Oving Road. The proposed two storey extension will be set in from this wall, allowing for the wall to be restored and reinstated. These works are being carried out under a separate consent, where the AVDC Heritage Officer has provided formal comments on the scheme (Ref. 19/00499/ALB). The AVDC Heritage Officer considered that the restoration and repair of the garden will reverse an unsympathetic later addition to the historic garden wall and that the works will not harm the historic interest or significance of any heritage asset. It is considered reasonable to attach conditions to this approval so that samples of the bricks, brick bond, pointing, mortar mix and capping brick to be submitted for the approval by the Local Planning Authority to ensure that the works can be carried out without causing harm to the listed wall and would preserve the setting of the Conservation Area and nearby Listed Buildings.
- 9.22 In regards to the setting of the nearby Grade II listed buildings and barn, it is considered that due to the nature of the works there would be no impact on the setting of the Listed Buildings. It is considered that due to the distances between the proposed extension and the Grade II listed building located on the opposite side of the highway, to the north, No.2 Oving Road there would be no significant harm to the setting of this Listed Building.
- 9.23 The closest listed building lies to the south east and east of the site, and includes the residential property of Quaker Barn and the associated outbuilding. It is considered that the impact of the two storey side extension would cause no harm to the setting of these designated heritage assets and the reinstatement of the historic wall would help to enhance the historic interest of these listed buildings.
- 9.24 It should be noted that concerns have been raised regarding the previous comments from the AVDC Heritage Officer on the application site. The AVDC Heritage Officer provided comments on the previous 2017 application, and a pre-application service received in 2018, this can be viewed as part of the applicants design and access statement. The plans submitted as part of the 2017 are materially different to the current scheme and the alterations have sufficiently addressed the heritage concerns over the scale of the original scheme.

9.25 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. In addition, no harm would be caused to the significance of the heritage asset, and as such the proposal accords with guidance contained within the NPPF and GP53 of the AVDLP.

**c) Impact on Residential Amenity**

9.26 Policy GP8 of the AVDLP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal.

9.27 The proposed two storey extension would include openings on the southern, eastern and northern elevation.

9.28 The two side storey extension would be built towards the east of the site, towards the shared boundary with the neighbouring dwelling to the south east, Quaker Barn, No.1 Oving Road.. The host dwelling benefits from built development along side all boundaries, with residential dwellings located to the west and south east along Market Hill and north and east along Oving Road. There are also further residential dwellings opposite the dwelling, on the other side of Market Hill.

9.29 The neighbouring site to the east, Quaker Barn (No.1 Oving Road), includes an detached outbuilding to the north east of the residential dwelling. Quaker Barn is located to the south east of the host dwelling set further towards Market Hill compared to the host dwelling. The outbuilding located within the ownership of Quaker Barn is located 10m from the proposed extension. Representations have been received from the occupier of this dwelling raising concerns regarding an increase in overlooking and an overbearing feature as a result of the proposed scheme. The representations from the Parish Council relate to the height of the building which would cause loss of light and overlooking from a proposed window on the eastern elevation of the extension.

9.30 The eastern elevation of the extension includes an single opening, to be located 1.74m above internal floor level, this opening is located within the gable end of the extension. This elevation faces onto the neighbouring site, currently used predominately as a driveway leading to the property. There is also a detached outbuilding which is used ancillary to the main dwelling. The existing arrangement includes an opening on the existing dwelling,



serving a bedroom, which faces onto the neighbouring site. It is acknowledged that the proposed window would be located 4.3m closer to the shared boundary compared to the existing opening, however, it is considered that due to the high level nature of the window there would be no detrimental loss of amenity as a result of this window. Should any views be achieved from this opening, the outlook, of the driveway and outbuilding would not cause any overlooking into any habitable rooms within the neighbouring dwelling. It is not considered reasonable or necessary to attach a condition to alter this window (obscurely glazing or non opening), as this window would be the only opening serving the proposed bedroom.

- 9.31 The northern elevation includes a door and single opening, this will be located at ground floor level and will face onto the northern boundary of the site. This boundary is marked by a brick wall, with trellis, which runs along Oving Road. It is considered that there would be no overlooking or loss of privacy as a result of these openings.
- 9.32 The southern elevation of the extension, which faces towards Market Hill and the northern elevation of the neighbouring dwelling Quaker Barn, would include a gable feature which is proposed to be largely glazed with a set of sliding doors at ground floor level. These openings will provide access into the kitchen from the courtyard and provide light into the kitchen and landing area at first floor level. It is considered that the addition of these openings will raise no concerns with overlooking or loss of privacy to any dwellings located along Market Hill. The elevation of Quaker Barn which the openings would face onto includes no openings and therefore no overlooking would occur.
- 9.33 It is acknowledged that concerns have been raised regarding the overshadowing and overbearing nature of the extension. The application site is located on higher ground than the neighbouring site to the east and therefore when viewed from Quaker Barn the extension would appear greater in height. The proposed extension would add an addition of 2.2m to the height of the existing side extension present. It is considered that due to the design of the extension, set down from the ridge of the roof, and the relationship with this neighbouring dwelling there would be no detrimental loss of light to any habitable rooms located within Quaker Barn nor would the proposal have an overbearing impact on the neighbouring property.
- 9.34 No other properties will be unduly affected as a result of this proposed development and the proposal would accord with policies GP8 and GP9 of the AVDLP and to the guidance contained within the NPPF.

**d) Impact on Highways & Parking**

- 9.35 AVDLP policy GP24 and the councils SPG Parking Guidelines stipulates that, for dwellings with four bedrooms, there should be a maximum of three parking bays provided within the

curtilage of the dwelling. These spaces must be, at minimum, 2.4m in width and 4.8m in depth.

9.36 The addition of the two storey side extension would increase the number of bedrooms within the host dwelling from three to four. The application site includes a detached garage to the west and an area of hardstanding to the front of the garage. The garage measures 10.3m x 3.2m which would accommodate two vehicles, there is also space on the hardstanding to provide a third space. Therefore, the proposal would accommodate the required parking bays, including the additional space as set out in the Councils Parking Guidelines. The proposal is considered to accord with ADVLP policy GP.24 and the Councils SPG Parking Guidelines and the NPPF.

**e) Other Matters**

9.37 Representations have been received raising non-material planning considerations which can not be taken into account during this assessment of the proposal. The representations received regarding the upkeep and maintenance of the listed wall and the concerns over the foundations of the site/wall would be considered non-material and would be considered a civil matter or covered under a different legislation, such as the Building Control Regulations.

9.38 Comments have also been received in regards to the plans submitted with the application and concerns over inaccuracies within the plans and if the development would be carried out in accordance with the provided details. The plans provided within the application meet the validation requirements and are to a workable scale, which include a scale bar and north arrow. Should permission be granted, if works which were carried out not in accordance with the approved details would be in breach of the permission and therefore the appropriate action could be taken.

**Case Officer:** Alice Culver

## APPENDIX

### APPENDIX 1 – Local Member Comments

First of all, I'd like to refer you to the report of the heritage officer in respect of the previous application (17/02281/APP) on this site dated 21<sup>st</sup> July 2017.

She stated "the proposed extension would loom above the adjacent Quaker Barn and its associated barn and would cause harm to the setting of these listed buildings". She also expressed her concern at the harmful effect the proposed extension would have on the setting of 2 Oving Road, which is Grade II listed, and the fact the proposal would fail to preserve or enhance the conservation area.

She also had a concern about the detrimental effect of the proposed extension on a historic boundary wall.

She went on to say the design of the extension would sit uncomfortably with the existing dwelling and would have an awkward proportion with the main house.

She recommended the proposal be refused.

Whilst the current application has been amended from that submitted in 2017 it carries with it the same detrimental effects in respect of the adverse impact on the amenity to Quaker Barn.

The amenity land of the neighbouring property, Quaker Barn, sits just below the proposed extension and the massing effect of this proposal would seriously impact on that amenity space and the annex which sits directly opposite the proposal.

The Heritage Officer, in her letter to the applicant dated 23<sup>rd</sup> March 2018, clearly stated that her advice only related to the impact on the conservation area, the adjacent listed buildings and the historic boundary wall. It did not take into account the adverse impact on the neighbour's amenity or other, wider, planning issues – although, having said that, she did recommend the installation of a small window which would introduce light into the extension. This latter comment would not only seem to contradict her statement but would also introduce a factor that might have an adverse impact on the privacy of Quaker Barn through overlooking.

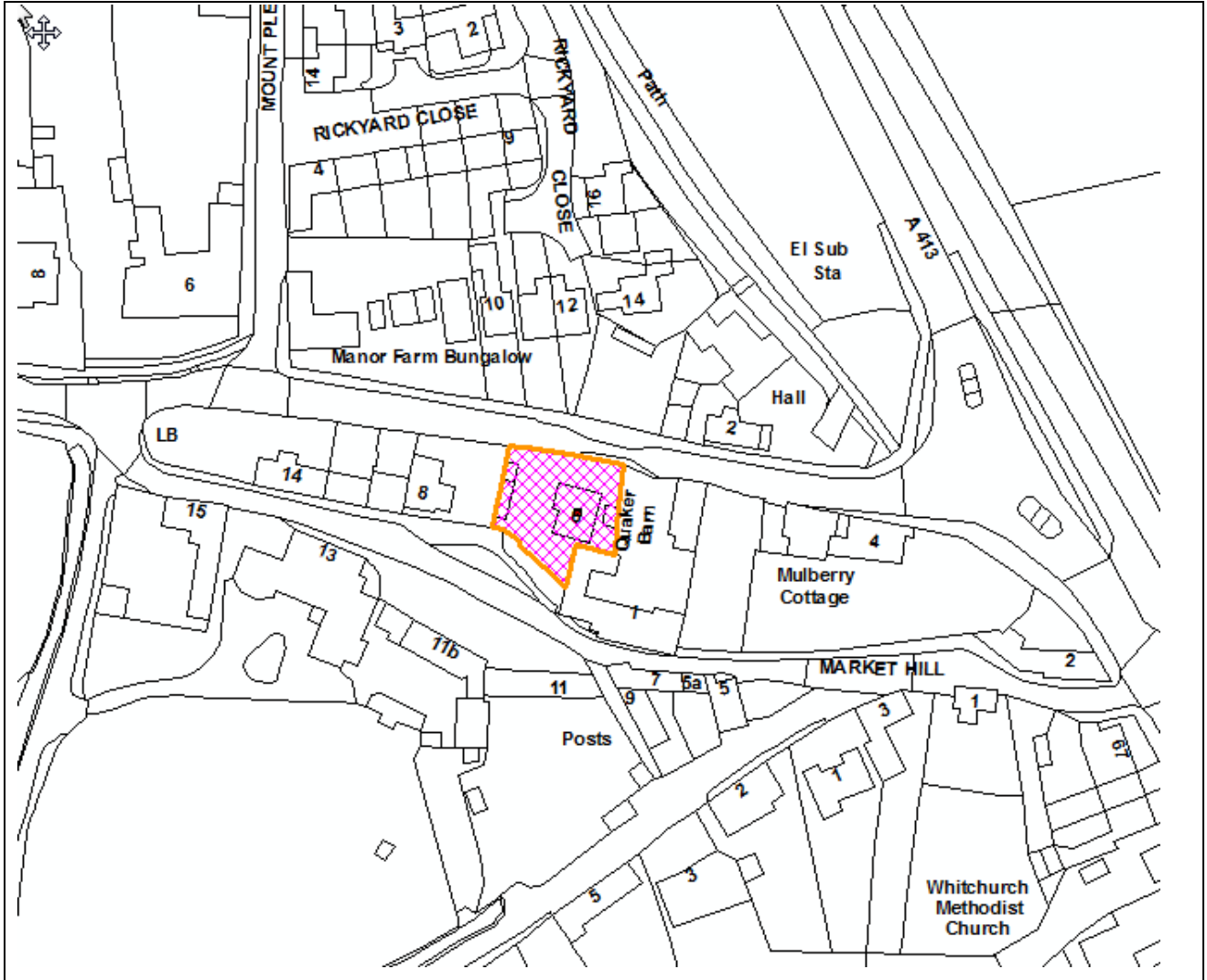
The impression from the Heritage Officer is that the adverse impact on the historic boundary wall would be reduced by this revised application due to the method of constructing foundations for the extension. This should be extensively tested before the commencement of any work because if any damage is caused to the wall its integrity will be severely compromised.

There is also a concern that, given the proximity of the neighbouring listed property to the proposed extension, the foundations of that property could be adversely impacted by construction work.

It's sometimes very difficult to assess the impact of a proposal from drawings alone, particularly in a situation like this where slab levels are so different from one property to another. A site visit would better demonstrate the serious issues associated with this application and I would urge members to defer taking a decision today to allow them to make a more informed decision after having seen for themselves the harm that would be caused by this application

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19/00499/ALB



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
19/00499/ALB	WHITCHURCH The Local Member(s) for this area is/are: -	13/02/19
REMOVAL OF MODERN EXTENSION FROM GARDEN BOUNDARY WALL IN THE CURTILAGE OF NEIGHBOURING LISTED BUILDING AND REINSTATEMENT AND RESTORATION OF THIS SECTION OF THE WALL. 6 MARKET HILL HP22 4JB MR & MRS CULL	Councillor Mrs J Blake	
STREET ATLAS PAGE NO. 87		

**1.0 The Key Issues in determining this application are:-**

- a) Impact on the special architectural and historic interest of the listed building.**
- b) Other Matters**

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

**Conclusion and recommendation**

1.1 The proposal is considered to preserve the architectural and historic interest of the listed wall and will cause no harm to the significance of the heritage asset. It is therefore, considered that the proposal accords with the relevant sections of the NPPF and the Planning (Listed Building and Conservation Area) Act 1990.

1.2 It is therefore recommended that the application be **GRANTED** subject to the following conditions:

**Conditions:**

1. STC6 – Standard time condition
2. US05 – The materials to be used in the development shall be as indicated on the approved plans. Please also see note no. 5 on the back of this notice.
3. No development shall commence until a sample panel for the proposed bricks and mortar has been constructed on site and approved in writing by the Local Planning Authority. The development shall thereafter take place only in accordance with the approved details. Please also see note no. 5 on the back of this notice.
4. No development shall commence until details of the Capping Brick to be used on the development has been submitted to and approved in writing by the Local Planning Authority. Please also see note no. 5 on the back of this notice.
5. All new or altered external surfaces shall be finished or made good to match those of the existing wall.

**Reasons:**

1. RE04 – To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. RE13 - To ensure that the proposed works can be effected without detriment to the special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.
3. RE13 - To ensure that the proposed works can be affected without detriment to the special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.
4. RE13 - To ensure that the proposed works can be affected without detriment to the special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.
5. RE13 - To ensure that the proposed works can be affected without detriment to the special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.

**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 so it has therefore been dealt with without delay.

## **2.0 INTRODUCTION**

2.1 Whitchurch Parish Council raised material planning objections to the scheme and indicated that they wish to speak at committee. Whitchurch Parish Council raised objections relating to the proximity of the extension to the boundary, the height of the proposed extension having a significant impact and overshadowing the neighbouring dwelling. The Parish Council also raised concerns over the position of a new opening within the proposed extension which would cause concerns regarding privacy to the neighbouring dwelling.

2.1 The Local Member requested that the application be considered by the Committee. The comments received from the Local Member are appended to this report and a summary of their comments are provided below:

- Concerns over the previous advice received from the AVDC Heritage Officer, in relation to the previous application on the site. Whilst it is noted that the current application has been amended from that submitted in 2017, however, it carried with it the same detrimental effects in respect of the adverse impact on the amenity of Quaker Barn.
- Concerns regarding the proposed extension causing damage to the historic boundary wall, including the foundations of the foundations of the neighbouring property
- Impacts on residential Amenity

2.2 The comments raised above which relate to the potential impact on the street scene and residential amenity, are matters which are assessed under the Planning Application, which has been submitted in conjunction to this Listed Building Consent. This application does not give scope for the impact on the street scene or residential amenity to be considered and relates solely to the impact on the designated heritage asset.

2.3 Consultation has been carried out with the AVDC Heritage Office regarding the impact on the listed wall, and it is considered that there would be no harmful impact to the significant of the heritage assets, and therefore, the proposal accords with the relevant sections of the NPPF and the Planning (Listed Building and Conservation Area) Act 1990.

## **3.0 SITE LOCATION AND DESCRIPTION**

3.1 The application site relates to a detached, two storey dwelling located on the northern side of Market Hill, Whitchurch. The dwelling is constructed of brick, painted white, and a tiled



gable roof. The property is 'L' shaped in form and has previously been extended, in the form of a single storey side extension to the eastern side of the dwelling. This extension was built in the 1970s (prior to the listing of the adjacent property) which provided a boot room, utility and cloakroom and forms part of the wall along the eastern boundary of the site.

- 3.2 This application relates to a boundary wall which runs to the east and north of the host dwelling. The application relates to the part of the eastern boundary wall, which forms part of the historic wall within the curtilage of the neighbouring Grade II Listed Building, Quaker Barn, where the existing single side storey extension is built into.
- 3.3 The applications site is located within the Whitchuch Conservation Area and Quaintion-Wing Hills Area of Attractive Landscape.

#### **4.0 PROPOSAL**

- 4.1 This application seeks Listed Building Consent to restore the historic garden wall which forms part of the shared boundary to the east of the host dwelling, with the neighbouring dwelling to the south east, Quaker Barn, No.1 Oving Road. This application relates to a 3.9m section of the wall which forms a boundary between Quaker Barn and the host dwelling.
- 4.2 This application has been submitted in conjunction with a planning application for the demolition of an existing single storey side extension and erection of a two storey side extension (Reference 19/00498/APP).
- 4.3 The proposal is to reinstate this 3.9m section of the wall as a separate structure and to make good its appearance, to match the existing remaining section of the wall.

#### **5.0 RELEVANT PLANNING HISTORY**

- 5.1 78/02225/AV - ERECTION OF UTILITY ROOM AND ENCLOSURE OF PORCH AREAS – Approved
- 5.2 17/02281/APP - Removal of existing rear single storey extension and replacement with a two storey extension. – Withdrawn
- 5.3 19/00498/APP - Replacement of an existing single storey side extension with a two storey extension – Pending Consideration

#### **6.0 PARISH COUNCIL COMMENTS**

- 6.1 Whitchurch Parish Council have objected to this application, as outlined below.

6.2 “The closeness of the extension to the boundary, the height of the building blocks out light to the neighbouring property, the window impedes on the privacy of the neighbouring property”.

## **7.0 CONSULTATION RESPONSES**

7.1 AVDC Heritage – *“The proposals would preserve the architectural and historic interest of the listed building and therefore complies with sections 66 of the Act. The proposals would preserve the character and/or appearance of the conservation area and therefore complies with section 72 of the Act. The proposal would cause no harm to the significance of the heritage assets”.*

7.2 Buckingham and River Ouzel Drainage Board – No Comment

## **8.0 REPRESENTATIONS**

8.1 2 letters of representation have been received from the occupiers of the neighbouring dwelling to the east of the site, Quaker Barn. As summarised below:

- The advice from the Heritage Officer is contrary to previous advice given for the application site, as dated 21<sup>st</sup> July 2017 and 23<sup>rd</sup> March 2018.
- Impact on the setting of the nearby listed buildings.
- The site is on higher ground than Quaker Barn and therefor is noticeable in public views from the highway.
- The proposed extension is equivalent to a 3 storey building being built on the border, which is an historic garden wall, between two properties causing harm to the setting of Quaker Barn, the street scene on Oving Road and neighbouring dwellings.
- Concerns over the existing foundations of the existing extension and the impact this may have on the listed wall to the east of the site. A full assessment of the integrity of the Listed Wall is required along with calculations to substantiate no damage is caused as a result of the increase from the proposed two storey extension.
- There is a high risk that the wall is compromised either during or after construction and potential damage to the listed building and a tree in the Conservation Area.
- The extension would be built close to the listed wall, making maintenance of the wall impossible
- Concerns that the development would not be carried out in accordance with the submitted plans.

- Impact on residential amenity, including loss of light and overlooking
- The extension does not respect the local area, including the nearby listed buildings and Conservation Area.
- The design of the extension does not respect the original building line facing Oving Road nor does it produce an unfettered roof slope.
- The proposed includes to add a boundary fence above the current wall which would add a further material to the listed wall which is made up of stone and brick. The effect of this would make the two dwellings appear semi-detached and would detract from the Listed Building, as viewed from Quaker Barn and Oving Road.
- Inaccuracies in the submitted plans (Not to scale).

## 9.0 EVALUATION

### ***a) Impact on the special architectural and historic interest of the listed building.***

- 9.1 Section 16 & 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving the Listed Building, its setting and any features of special architectural or historic interest in which it possesses.
- 9.2 The relevant policies within the Aylesbury Vale District Local Plan in respect of Listed Buildings are now out of date and these policies have been replaced by the guidance of the Framework which is a material consideration in the assessment of this proposal.
- 9.3 Paragraph 189 of the NPPF states that in determining applications, LPA's should require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 9.4 In this instance, a heritage statement has been submitted alongside the application which is considered to be sufficient and therefore acceptable for the above purposes.
- 9.5 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).
- 9.6 The application site is located in the heart of Market Hill with the front elevation facing onto Market Hill to the south and the rear facing onto Oving Road, to the north. The host dwelling currently includes a single storey side extension to the east of the dwelling which

is located on the boundary with Quaker Barn, a Grade II Listed Building. Quaker Barn includes a historic garden wall which forms the boundary between the two plots and also forms part of the eastern wall of the existing extension.

- 9.7 This application relates solely to the works to the historic wall, which is being submitted in conjunction to the application for the demolition of the existing single storey side extension and erection of a two storey side extension. The garden wall which the existing single storey side extension forms is a red brick wall located between the host dwelling and Quaker Barn, the wall can be seen from Oving Road. The ground level to the adjoining site is set at a lower level than 6 Market Hill, due to the fall of the land the garden wall acts as a retaining wall. The gable wall of the side extension of 6 Market Hill c.1970's has been built directly on top of the wall, the fabric of the wall is in a good condition. The remaining red brick garden wall is capped with bull-nosed bricks which appear contemporary with the 19th century wall.
- 9.8 This application also submitted an inspection from a structural engineer, the report provided demonstrates that the design of a separate foundation for the proposed new extension will not cause damage to the garden wall nor to its function as a retaining wall. This will thereby allow the boundary wall to be reinstated and its appearance made good, to match the remaining sections of the wall. This can be controlled by a condition to ensure that the new section of the wall is finished to match the existing.
- 9.9 The AVDC Heritage Officer considers that the restoration and repair of the garden wall will reverse an unsympathetic later alteration to the historic garden wall which will not harm the special interest or significance of any heritage asset.
- 9.10 In addition to the comments provided from the AVDC Heritage Officer conditions have also been suggested which relate to samples of the bricks, brick bond, pointing, mortar mix and capping brick to be submitted for approval. It is considered reasonable to attach these conditions to ensure the works can be carried out without causing harm to the listed wall.
- 9.11 In summary, the proposals would preserve the architectural and historic interest of the listed wall and therefore complies with sections 66 of the Act. The Heritage Officer has concluded that the proposal would cause no harm to the significance of the heritage asset. Therefore, the proposal would accord with Section 16 and 66 of the Act and guidance contained within the NPPF.

**b) Other matters**

- 9.12 Representations were received raising concerns over the structural report provided along side the application, advice has been sought from the AVDC Heritage Officer who

suggested that in this instance they would not be asking for any evidence that the works would not undermine the barn (given the distances involved). It should also be noted that this is something that would be addressed within the Building Control Regulations should any works be granted consent.

- 9.13 Representations were also received raising objections to the scheme in regards to impact on amenity and the design of the extension. As previously stated, this application relates solely to the works to the listed wall and therefore an assessment of the impact on the dwellinghouse, street scene and wider area, impact on residential amenity, impact on the setting of the designated heritage assets will be considered within the planning application submitted alongside this application. The assessment of the Listed Building Consent does not allow for the assessment to include any other matters, as raised by the Parish Council and the occupier of the neighbouring dwelling.

Case Officer: Alice Culver

**APPENDIX 1 – Local Member Comments**

First of all, I'd like to refer you to the report of the heritage officer in respect of the previous application (17/02281/APP) on this site dated 21<sup>st</sup> July 2017.

She stated "the proposed extension would loom above the adjacent Quaker Barn and its associated barn and would cause harm to the setting of these listed buildings". She also expressed her concern at the harmful effect the proposed extension would have on the setting of 2 Oving Road, which is Grade II listed, and the fact the proposal would fail to preserve or enhance the conservation area.

She also had a concern about the detrimental effect of the proposed extension on a historic boundary wall.

She went on to say the design of the extension would sit uncomfortably with the existing dwelling and would have an awkward proportion with the main house.

She recommended the proposal be refused.

Whilst the current application has been amended from that submitted in 2017 it carries with it the same detrimental effects in respect of the adverse impact on the amenity to Quaker Barn.

The amenity land of the neighbouring property, Quaker Barn, sits just below the proposed extension and the massing effect of this proposal would seriously impact on that amenity space and the annex which sits directly opposite the proposal.

The Heritage Officer, in her letter to the applicant dated 23<sup>rd</sup> March 2018, clearly stated that her advice only related to the impact on the conservation area, the adjacent listed buildings and the historic boundary wall. It did not take into account the adverse impact on the neighbour's amenity or other, wider, planning issues – although, having said that, she did recommend the installation of a small window which would introduce light into the extension. This latter comment would not only seem to contradict her statement but would also introduce a factor that might have an adverse impact on the privacy of Quaker Barn through overlooking.

The impression from the Heritage Officer is that the adverse impact on the historic boundary wall would be reduced by this revised application due to the method of constructing foundations for the

extension. This should be extensively tested before the commencement of any work because if any damage is caused to the wall its integrity will be severely compromised.

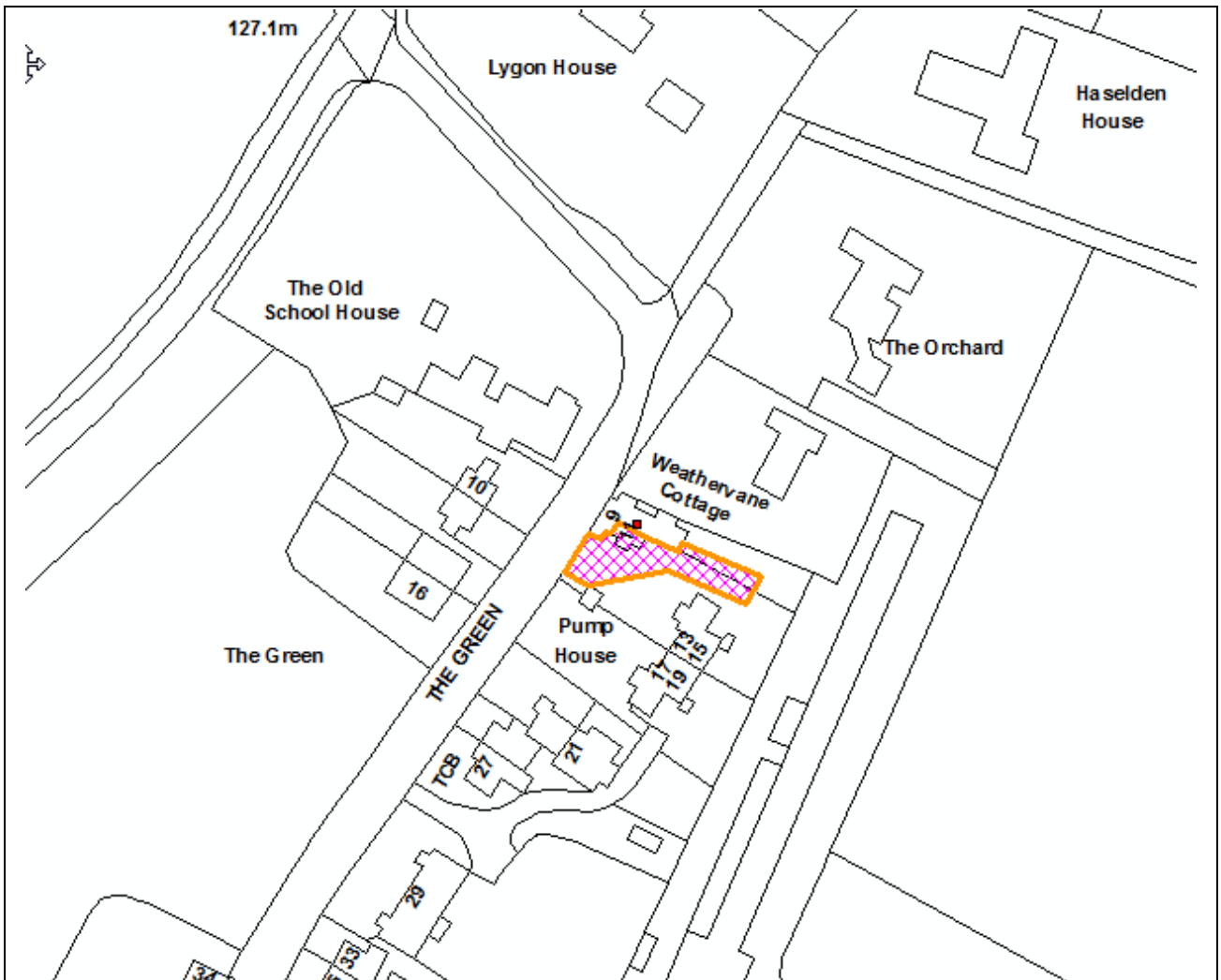
There is also a concern that, given the proximity of the neighbouring listed property to the proposed extension, the foundations of that property could be adversely impacted by construction work.

It's sometimes very difficult to assess the impact of a proposal from drawings alone, particularly in a situation like this where slab levels are so different from one property to another. A site visit would better demonstrate the serious issues associated with this application and I would urge members to defer taking a decision today to allow them to make a more informed decision after having seen for themselves the harm that would be caused by this application.

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18/02618/APP	
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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/02618/APP	MENTMORE The Local Member(s) for this area is/are: -	03/04/19
ERECTION OF NEW SHED/SUMMERHOUSE AND PLANTED SCREEN (PART RETROSPECTIVE) 11 THE GREEN LU7 0QF	Councillor P Cooper	
NIGEL ALLEN		
STREET ATLAS PAGE NO. 90		

**1.0 The Key Issues in determining this application are:-**

- a) Impact on appearance and character of the dwelling house, street scene and wider area**
- b) Impact on the conservation area and setting of the listed buildings**
- c) Impact on residential Amenity**
- d) Other matters**

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

**2.0 Conclusion and recommendation**

2.1 The proposal would respect the character of the host dwelling, and would not appear overly prominent within the street scene and surrounding area. It would preserve the character and appearance of the conservation area and the setting of the listed buildings and would not have an unacceptable adverse impact upon neighbour amenity.

2.2 Consequently, the proposal would accord with Policies GP8, GP9, GP35 and GP53 of the AVDLP and the National Planning Policy Framework.

2.3 It is therefore recommended that the application be APPROVED subject to the following conditions:

1. The shed/summerhouse hereby permitted shall not be used or occupied for business or any other purposes other than ancillary to the residential use of the property on the site, currently known as no. 11 The Green, Mentmore.

1. **Reason:** To preserve and maintain the residential character of the area in

accordance with policy GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

2. Within one month of the date of this approval the existing shed on the site shall be removed from the site.
2. **Reason:** To ensure that the proposed works can be affected without detriment to the setting of special architectural and historic interest of the listed building and to comply with the National Planning Policy Framework.
3. Within three months of the date of this approval, the existing fence erected at a 90° between the house and the shed/summerhouse as shown on plan ref F+P.E001 shall be removed from the site and a replacement planting scheme to provide for a planting screen has been submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate species, plant sizes and proposed numbers/densities and shall be carried out as approved within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.
3. **Reason:** To ensure a satisfactory visual appearance to the development and to comply with policy GP35 and GP38 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.
4. The development hereby permitted shall only be carried out in accordance with drawing No. F+P.P001 Rev A - received on 16.10.2018; F+P.E001 received on 8.8.2018; F+P.P002 Rev A - received on 16.10.2018 and Location Plan - received on 3.4.2019.
4. **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.

## **2.4 Informative**

### **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 applicant was informed of the issues arising from the proposal and given the opportunity to submit amendments in order to address those issues prior to determination. The applicant responded by submitting amended plans which were found to be acceptable so the application has been approved.

## **3.0 INTRODUCTION**

- 3.1 The application needs to be determined by the Development Management Committee as Mentmore Parish Council has raised material planning objections and confirms that a representative will speak at Committee.
- 3.2 The Parish Council has objected on the grounds of inappropriate development within the curtilage of a listed building and within the Mentmore Conservation Area. They have suggested that the Heritage Officer's comments are not strong enough given that the proposed shed/summerhouse is within the Hanna de Rothschild model village. In addition, they have stated that it is out of place in size, shape, colour, finish and roofline and is visible from adjoining listed properties and that the fencing should be included in the assessment.
- 3.3 The AVDC Heritage Officer explained that only a few of the original Hanna de Rothschild buildings were retained. The Heritage Officer added that it is reasonable for a sensitively designed garden structure to be erected within the garden of a listed building and that in this case, the distance between the listed building and the shed/outbuilding is acceptable. The new section of fencing will be replaced by a planted screen and this is included within the application. The applicants have also painted the summerhouse/ shed with a black tarred finish and the Heritage Officer has confirmed this colour would be more in keeping with the surrounding context.

## **4.0 SITE LOCATION AND DESCRIPTION**

- 4.1 This application relates to a semi-detached two storey dwelling house located to the north

east of The Green in Mentmore, a Grade II listed building within Mentmore Conservation area. The dwelling is built in the traditional style of the Rothschild estate building and is believed to date principally from the late 18th/early 19th century. It is constructed of red and vitreous chequer brick with a tiled roof with chimneys with 'V' pilasters and off-set heads. It is double fronted and each bay has a 2-storey gabled bay window, half-timbered with pebbledash infill to front, tile-hanging and herringbone brick infill to sides, and upper floors. The fenestrations are barred wooden casements with thick glazing bars. There is also a lean-to roof between bay windows at first floor level over a half-glazed door with similar glazing bars. Similar door in architrave frame with tiled lean-to hood to left gable. To the rear it has a gabled projection in style matching that of front bays, but with canted oriel window on coved base to first floor.

4.2 The property has a mature hedgerow border with wrought iron gated access to the front garden. There is a winding gravel path which leads to the front door and to the rear garden. The gardens are landscaped with mature shrubs and flower bed borders. The rear garden has a wooden store, a storage shed and a log store. There is a central lawn area with a stone paved patio next to the house. The garden has a brick wall along the boundary with no. 9 to the northern side and a 1.8m high timber boarded fence along the rear (eastern) boundary and on its southern side with No. 13. Currently there is a section of fence extending beyond the southern fence at 90°.

4.3 There are several buildings within close proximity to the site which are also listed, including the dwelling attached, No.9 the adjoining property and the adjacent properties which are No.13 and 15 The Green. To the north of the site is Weathervane Cottage a detached property. To east of the site is open countryside with a number of trees.

## **5.0 PROPOSAL**

5.1 This application seeks retrospective planning permission for the erection of a new shed/summerhouse positioned in the south east corner of the rear garden of No.11 The Green . It replaced a small shed in a similar location. The previous shed measures 1.21m in width by 2.72m in length by 2.2m in height. The replacement summerhouse/shed which is already in place measures 2.57m in width by 3.76m in length with a shallow mono-pitch roof, to a minimum height of 2.20m and a maximum height of 2.25m. The structure has a set of folding glazed doors along its front elevation facing towards the house with a full height window on its side elevation facing towards Weathervane Cottage. There is no fenestration on the flank elevation facing towards no. 13 or on its rear elevation. The roof slopes down slightly from west (front) to east (rear). The structure is constructed in shiplap timber wood with a shiplap timber roof covered with roofing felt. The window is

constructed of soft wood frames stained white with acrylic glazing whilst the shed door is shiplap timber wood. As submitted, the shed/summerhouse was grey in colour but since then a revised plan was submitted and it shows that it has now been painted with a black tarred finish.

- 5.2 Retrospective planning permission is also sought for the erection of a section of fence placed at 90 degrees between the house and the summerhouse/shed. Since the submission of the application, a revised site plan has been submitted to show that this fence will be removed and replaced by a planted screen. This can be secured by a condition.
- 5.3 The old shed has been moved to a location near the house temporarily. This will be removed if planning permission is granted for the shed/summerhouse and could be reinstated in its previous position were retrospective planning permission to be refused. This can be secured by a condition.

## **6.0 RELEVANT PLANNING HISTORY**

- 6.1 02/02202/ALB - Internal and external alterations - Refused
- 6.2 02/03006/ALB - Internal alterations (retrospective) - Approved
- 6.3 06/02906/APP - Single storey side extension. - Refused
- 6.4 06/02907/ALB - Single storey side extension. - Refused
- 6.5 07/01017/APP - Single storey front extension. - Approved
- 6.6 07/01018/ALB - Single storey front extension. - Approved

## **7.0 PARISH/TOWN COUNCIL COMMENTS**

- 7.1 Mentmore Parish Council objected on the 13<sup>th</sup> September 2018 on the grounds of inappropriate development within the curtilage of a listed building and within the Mentmore Conservation Area. Also they suggested that the comments of the Heritage Officer are not strong enough given the fact that this large and imposing summerhouse finds itself in the heart of this well-preserved Hanna de Rothschild model village. They added that it is out of place in size, shape, colour, finish and roofline and visible from

adjoining properties but they did not ask to take it to planning committee.

7.2 The application was re-advertised in April 2019 and on the 9<sup>th</sup> April Mentmore Parish Council reiterated their original objection but this time they asked to speak at Committee.

## **8.0 CONSULTATION RESPONSES**

8.1 Buckingham and River Ouzel Drainage Board has no comments to make regarding this application.

8.2 The AVDC Heritage Officer has no objections to the position and scale of the summerhouse and shed but raised concerns about the colour and the new fence erected without planning permission and advised the applicant to add this in the description.

8.3 Following the submission of further details by the applicant, the Heritage Officer provided a second response. The officer was satisfied that with the changes made to the colour of the summerhouse and the planting screen, it is considered that the proposal would not cause harm to the significance of the heritage asset and it is recommended that the application be approved subject to conditions.

## **9.0 REPRESENTATIONS**

9.1 Four neighbours have objected on the following grounds:

- Inappropriate size, style and colour is unsympathetic to the Conservation Area and the Listed Building (heritage assets).
- The building is intrusive, bulky with a large flat roof and of an unacceptable design and the garden lighting is intrusive.
- Misleading site plan and claim to be 'partially retrospective' with incorrect description of structure, subversion of the planning process.
- The summerhouse/shed has been built close to the boundary fences with No. 13 The Green and its thick frames and large glass panels, no mullions or transoms whatsoever and none of the intricacies of design or charm of the listed cottage windows of the main dwelling house.
- It is incumbent for the Heritage Officer to explain how the building as built contributes to the significance of the setting of the Heritage Asset as a design.

## 10.0 EVALUATION

### a) Impact on appearance and character of the dwelling house, street scene and wider area

- 10.1 AVDLP policy GP9 indicates that proposals should accord with SPG advice, should respect the appearance of the original dwelling, and should show respect for the setting of the dwelling and other buildings in the area.
- 10.2 Policy AVDLP 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.
- 10.3 The NPPF at paragraph 8, states that one of the overarching principles of the planning system is a social objective, including fostering well designed and safe built environment. NPPF paragraph 124 highlights that 'achieving well designed places' is central to the purpose of the planning system and to achieving sustainable development.
- 10.4 The shed/summerhouse is positioned at the far south east corner of the rear garden. It would be barely visible from public vantage points as it is shielded from views mainly by dense hedges and trees at the front when viewed from The Green (highway), looking east highway. The screen planting now proposed would further shield the shed/summerhouse from view.
- 10.5 With regard to its design, the shed/summerhouse is simple and modern in design. It is located in the same position as the previous shed but is larger in scale, with a footprint of about 9.6 square metres compared to 3.3 sq.m. for the previous shed. The shed/summerhouse has a maximum height of 2.25m compared to 2.2m for the old shed, but the increase of 0.05m is considered to be marginal. However, whilst it is relatively large in scale, it is aesthetically more pleasing and would remain subordinate to the host dwelling.
- 10.6 The structure is constructed of shiplap timber wood with a shiplap timber roof covered with roofing felt, materials which are considered to be appropriate in a domestic setting.
- 10.7 Mentmore Parish Council has objected on the grounds that the structure is out of place in size, shape, colour, finish and roofline. Some neighbours have also objected on the grounds of its size and colour. However, for the reasons given above, it is considered that the shed/outbuilding, whilst modern in design and larger in scale than the previous shed, would remain subservient to the host dwelling and would preserve the character of the area. The structure would also be constructed from appropriate materials and be in an appropriate colour, and these matters can be controlled by condition.



10.8 In summary the proposal is considered to be of a scale and design that respects the character and appearance of the existing dwelling and does not overwhelm it. In addition is considered that the proposal would not appear overly prominent within the street scene or the locality in general. The proposals are therefore considered to comply with GP9 and GP35 of the AVDLP and NPPF.

**b) Impact on the conservation area and setting of the listed buildings**

10.9 Section 16 and 66 of Planning (Listed Buildings and Conservation Areas) 1990 place a duty on local authorities to pay special regard to the desirability of preserving or enhancing the character or appearance of Listed Buildings.

10.10 Section 16 of the NPPF (2019) states that heritage assets should be conserved in a manner appropriate to their significance. It adds that Local Authorities should identify and assess the significance of any heritage asset that may be affected by a proposal, including to the setting of a heritage asset. It also states that great weight should be given to the asset's conservation, and any harm to, or loss of, the designated heritage asset should require clear and convincing justification.

10.11 Paragraph 189 of the National Planning Policy Framework (NPPF) states that information held in the relevant historic environment record should be consulted and expert advice obtained where necessary. The NPPF recognises that the effect of an application on the significance of a heritage asset (including its setting) is a material planning consideration.

10.12 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.

10.13 The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 193 states that there should be great weight given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be. With Paragraph 194 stipulates that any harm to or loss of the significance of a designated heritage asset must be supported by a "clear and convincing justification". In the case of heritage assets, permission for the substantial harm to or loss of the significance of these assets would only be granted in exceptional circumstances. This is echoed by AVDLP policy GP.53. AVDLP policy GP53 seeks to preserve the special characteristics that led to the designation of the Conservation Area. Proposals will not be permitted if they would cause harm to the character or appearance of the Conservation Area or to its setting. However, policy GP.53 is not entirely consistent

with the 'language' of the NPPF in so far as it does not go on to comment on whether the proposal would result in substantial or less than substantial harm which would need to be outweighed by the public benefits of the scheme. In this respect GP.53 cannot be given full weight but is still a material consideration.

- 10.14 Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.15 The site is within the Mentmore Conservation Area, designated in 1978. The dwellinghouse is a Grade II Listed Building. It also lies within the setting of other listed buildings, including the adjoining No.9, as well as No.13 and No.15 The Green.
- 10.16 The AVDC Heritage Officer explained that Mentmore is a small rural settlement substantially rebuilt as a model village in 1877 by Hannah Rothschild but that only a few of the original buildings were retained.
- 10.17 The Heritage Officer stated that it is perfectly reasonable for a sensitively designed garden structure to be erected within the garden of a listed building, and the guidance is to consider a location which is screened from view of the listed building at an acceptable distance. The officer considered that in this case, the distance between the listed building and the shed/outbuilding (about 10m) is acceptable, with further screening provided by a section of timber fencing positioned at 90° to the boundary fencing. The Heritage Officer added that the screening in this location may be more suitable as a planted screen, limited to below the height of the adjoining fence. The applicant responded by submitting amended plans, showing that the 2m section of timber fencing would be replaced by a planted screen as suggested by the Heritage Officer.
- 10.18 The Heritage Officer then considered the impact on the other listed buildings. The gap between the shed/outbuilding and the listed buildings at No.13 and No.15 The Green is about 5.5m. The heritage officer added that the new garden structure is modern in style with full height glazed panels and painted grey. The officer asked if the external finish of the proposed shed/summerhouse could be changed to be more in keeping with the setting of the surrounding listed buildings. The applicant responded by painting the summerhouse/ shed with a black tarred finish. The Heritage Officer has confirmed that this colour would be more in keeping with the surrounding context. The Heritage Officer concluded that the proposals, as amended, would preserve the architectural and historic interest of the listed building and therefore complies with section 66 of the Planning (LB&CA) Act 1990.

- 10.19 With regard to the impact on the Conservation Area, the gardens in this part of the village contribute positively to the character of the area as a whole. However, the Heritage Officer acknowledges that the shed/summerhouse replaces a previous shed in the same location although the new structure will be larger in scale and is modern in its appearance. The officer added that if the external finish is changed to be more in keeping for with the area, as now proposed through the amended plans, and the setting of the listed buildings, the increased scale of the proposed garden structure would be acceptable and would preserve the character of the conservation area. Timber garden structures are typically subservient in their style with the timber simply varnished or tarred weatherboarding. If the applicants were willing to replicate this style of finish to the structure, the officer considered that the garden outbuilding would be more in keeping within the setting of the listed buildings.
- 10.20 Therefore, the Heritage Officer concluded the proposals, as amended, would preserve the character and appearance of the conservation area and therefore complies with section 72 of the Act.
- 10.21 It should be noted that several neighbours have objected to the proposal, including on the grounds that the shed/outbuilding is unsympathetic to the Conservation Area and the Listed Building. Some of these neighbours have disagreed with the conclusions of the Heritage Officer, for example the comment that a black tarred finish would be in keeping with the surrounding context. However, the Heritage Officer has confirmed that the proposal would be an appropriate form of development and give rise to no heritage objection, should it be approved.
- 10.22 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 is 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. In addition, no harm would be caused to the significance of the heritage asset, and as such the proposal accords with guidance contained within the NPPF.
- c) Impact on residential amenity**
- 10.23 Policy GP8 of AVDLP seeks to protect the residential amenity of nearby residents whilst a core planning principle of the NPPF also seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

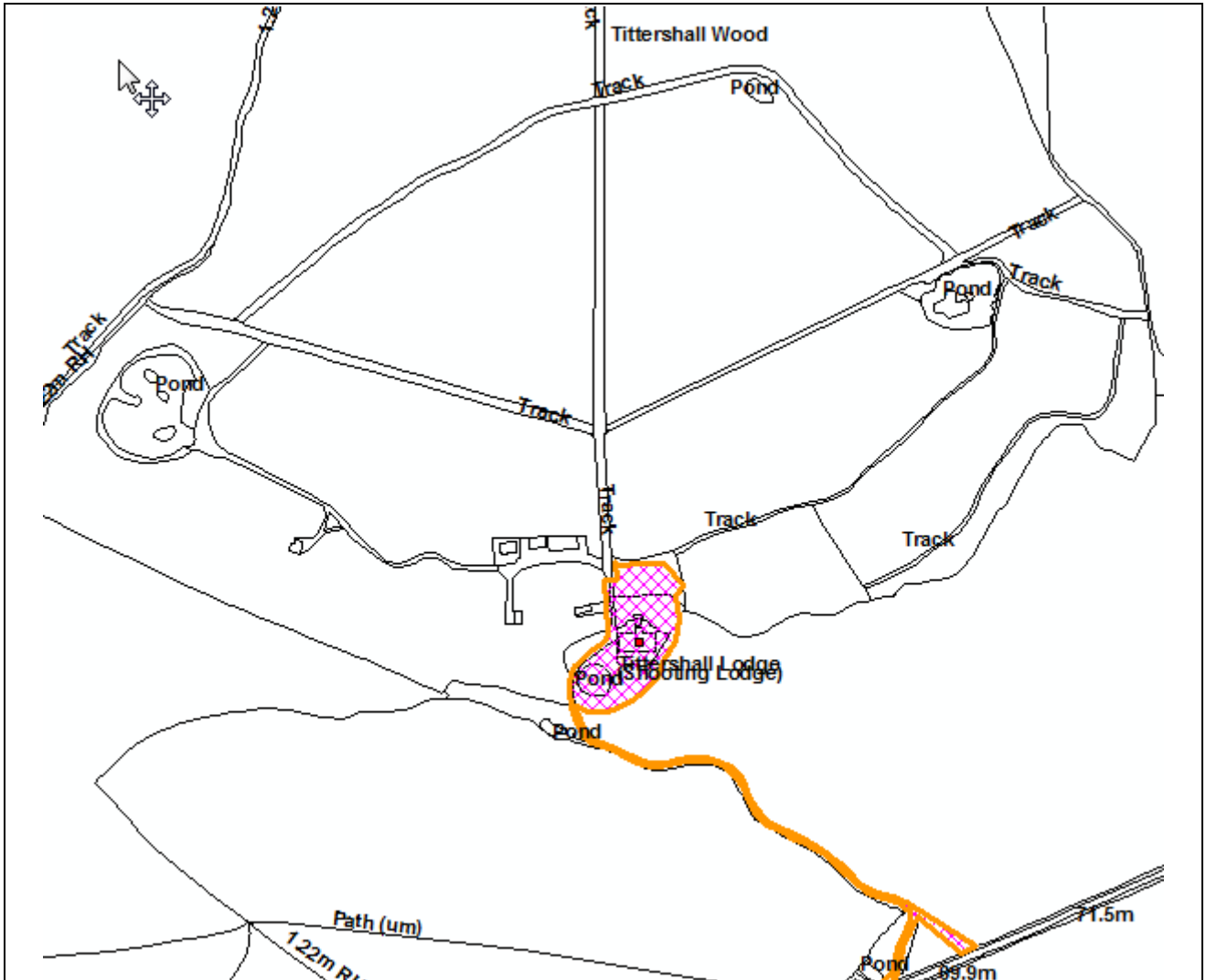
- 10.24 Paragraph 127 of the NPPF seeks to ensure that developments create places with a high standard of amenity for all existing and future occupants.
- 10.25 The shed/outbuilding is clearly visible to the occupants of No.13 and 15 The Green. It is acknowledged that the structure is close to the boundary with these dwellings. However, although it is a larger structure, it is only marginally taller (0.05m) than the previous shed, and the existing 1.8m high timber boarded fence along the boundary would substantially shield it from view, although it is acknowledged that the top section of the proposed building would remain visible. The proposal would not result in any overbearing impact upon the enjoyment of the rear gardens of the neighbouring properties. In addition, there are no windows on the structure facing towards this neighbour. Therefore it is considered that on balance, the shed/outbuilding would not have an unacceptable impact on these neighbours in terms of loss of privacy, overlooking or loss of light.
- 10.26 The neighbours at Weathervane Cottage to the north east are also likely to be able to view the shed/outbuilding. There is a full height window at ground floor on its side elevation facing towards this neighbour. However, there is a distance of approximately 15m between this dwelling and the structure, and the brick wall along the boundary with this neighbour will also help to shield it from view. The shed/outbuilding is also likely to be visible to the occupants of No.9 The Green, but there is a distance of at least 15m between this dwelling and the structure, and the intervening brick wall will assist to shield the proposal from view. It is not considered, therefore, that there would be any material impact on the amenity of these neighbours.
- 10.27 In summary, given the positioning of the proposal and its relationship relative to the neighbouring properties in terms of scale, position of windows and orientation it is considered that the proposal would not have an unacceptable adverse impact upon the neighbouring amenity. Therefore the proposal accords with GP.8 of AVDLP and NPPF.

**d) Other matters**

One neighbour has objected on the grounds that it would be used as a home office by the applicant. However, the applicant has responded on this issue by stating that it would be used only for personal office use and storage of garden equipment. This can be secured by a condition.

Case Officer: Bibi Motuel

18/04264/APP	
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REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/04264/APP	WOTTON UNDERWOOD	29/11/18
VARIATION OF CONDITION 4 OF PLANNING PERMISSION 14/02604/APP TO VARY THE WORDING OF THIS CONDITION TO THE BUILDING HEREBY APPROVED SHALL ONLY BE USED AS A SHOOTING LODGE IN CONNECTION WITH GAME SHOOTS, SIMULATED SHOOTS AND CLAY PIGEON SHOOTS OPERATED ON AND FROM THE LAND, AND THE USE OF TWO ROOMS FOR OVERNIGHT ACCOMMODATION FOR CLIENTS ATTENDING SHOOTING EVENTS AND FOR NO OTHER PURPOSE INCLUDING BUT NOT LIMITED TO RETAIL SALES TO MEMBERS OF THE PUBLIC OTHER THAN THOSE ATTENDING SHOOTING EVENTS OR AS A VENUE FOR HIRE.	The Local Member for this area is:-  Councillor Cameron Branston	
TITTERSHALL LODGE KINGSWOOD LANE HP18 9FY		
MS ROSA PIACQUADIO		
STREET ATLAS PAGE NO 96		

## 1.0 The Key Issues in determining this application are:-

- a) The planning policy situation and the approach to be taken in determination of the application
- b) Whether the proposed variation of condition would constitute a sustainable form of development having regard to:
  - Building a strong competitive economy
  - Conserving and enhancing the natural environment
  - Conserving and enhancing the historic environment
  - Promoting sustainable transport
- c) Impact upon the residential amenity

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

## 2.0 INTRODUCTION

- 2.1 The application stands to be determined by committee as Councillor Cameron Branston has requested that the application be brought to Committee for determination for the following reasons:
- He is concerned about the impact upon residents and takes as a starting point Policy GP8
  - He is concerned about the impact of increased traffic in the area
  - He believes that it will increase noise levels for residents

## 3.0 BACKGROUND AND MAIN ISSUE

- 3.1 Retrospective Planning Permission was granted under reference 14/02604/APP on 5<sup>th</sup> January 2016 for the construction of the Shooting Lodge including the car park, patio and other incidental works at Tittershall Lodge, Kingswood Lane, Wotton Underwood.
- 3.2 The decision notice included a condition which restricted the use of the shooting lodge as follows (Condition 4):

The building hereby approved shall only be used as a shooting lodge in connection with game shoots operated on and from the land, and for no other purpose including overnight or residential accommodation, retail sales to visiting members of the public or as a venue for hire.

Reason: The building has been approved in the light of guidance in Para 17 of the NPPF because of the special needs of the game shoots operated on and from the land. This control is necessary to prevent inappropriate uses taking place and in the interests of highway safety given the substandard nature of the access to the site

- 3.3 The applicant has submitted a Section 73 Variation of Condition application which seeks to vary condition 4 as follows:
- to permit the use of the existing shooting lodge in connection with clay pigeon and simulated shooting
  - to allow the existing shooting lodge to be used for the sales of goods to members of the public attending shooting events at the site
  - to allow two existing storage rooms at first floor level within the shooting lodge to be used for overnight accommodation for clients attending shooting events.

#### 4.0 CONCLUSION AND RECOMMENDATION

- 4.1 The application has been evaluated against the extant development plan and the NPPF.
- 4.2 The shooting lodge is an existing building, and the principle of its use by clients participating in game bird shoots has previously been accepted under Planning Permission 14/02604/APP. The variation of condition to enable the lodge to be used for clay pigeon and simulated shoots, which are existing lawful uses on the site under the 28 day rule, and to allow the sales of goods to members of the public attending shooting events, would accord with Para 83 of the NPPF which seeks to promote a strong rural economy and the sustainable growth and expansion of all types of business and enterprise in rural areas. The use of two existing storage rooms for overnight accommodation would accord with policy GP72 of the AVDLP and Para 83 of the NPPF which also gives support given to sustainable rural tourism and leisure developments that have the potential to benefit businesses in rural areas. The support to a local business should be afforded positive weight in the planning balance.
- 4.3 It is considered that the proposed variation of condition 4 relating to the use of the existing shooting lodge would have no further impact upon the character and appearance of the countryside, sustainable transport or the amenity of residential properties. It is considered necessary to put two new conditions in place to limit the use of the overnight condition given that the local Planning Authority would not accept a new dwelling on the site given the open countryside location. With these conditions in place it is considered that the proposal would comply with policies GP8, GP24, GP35, GP72 and RA4 of the AVDLP and the NPPF.
- 4.4 It is recommended that the application be approved subject to the following conditions:
- 1 Landscaping scheme to be implemented (Agent has confirmed that this condition has been implemented so can be **Deleted**).
  - 2 Any tree or shrub which forms part of the landscaping scheme approved under Planning Permission 14/02604/APP which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.  
  
Reason: In the interests of the visual amenities of the area and to comply with Policy GP38 of the AVDLP and the NPPF.
  - 3 The area shown for parking and manoeuvring on the approved plan reference 218/2014/01, approved under Planning Permission 14/02604/APP, shall not be used for any other purpose  
  
Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to comply with Policy GP24 in the Aylesbury Vale District Local Plan and to accord with the NPPF.
  - 4 The building hereby approved shall only be used as a shooting lodge in connection with game shoots, simulated shoots and clay pigeon shoots operated on and from the land and



no other purpose including, but not limited to, retail sales to members of the public other than those attending shooting events, or as a venue for hire.

- 5 **(New Condition)** The guest accommodation shown on drawing no. shall only be used as short term overnight accommodation for guests attending shooting events and for no other purpose (including any other purpose within Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

Reason: For the avoidance of doubt as to what is being permitted and because the Local Planning Authority would not accept an independent dwelling on this site due to the open countryside location and to accord with the NPPF.

- 6 **(New Condition)** The guest accommodation hereby permitted shall not be occupied by the same person or persons for more than 28 days in any six month period.

Reason: For the avoidance of doubt and in the interests of tourism and economic vitality of the countryside and to comply with Policy GP72 of the AVDLP and the NPPF.

#### **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, following the receipt of an additional plan showing the rooms to be used for overnight accommodation, the application was considered to be acceptable as submitted, and no further assistance was required.

#### **5.0 SITE LOCATION AND DESCRIPTION**

- 5.1 The site lies within Tittershall Wood which is situated in the open countryside to the south-west of the village of Kingswood and to the east of Ludgershall.
- 5.2 The access to the site and Tittershall Wood is taken from the Kingswood to Wotton Underwood/Ludgershall Road, and is via a 350m long track which crosses open agricultural land.
- 5.3 Tittershall Wood is operated as a commercial game bird rearing and shooting enterprise. Close to the access to the land is the shooting lodge to which this application relates. There are a number of other buildings on the site including a gamekeeper's dwelling for which planning permission was granted in 2012.
- 5.4 The nearest residential properties not associated with the business are located in Ludgershall, over 1.2 km from the site's boundary to the west, and at Tetchwick, 365 metres to the north (Tetchwick Moat House). Middle Farm and Yeat Farm are located 850 and 1 km from the site's boundary to the south-east.

#### **6.0 PROPOSAL**

- 6.1 Retrospective Planning Permission was granted under reference 14/02604/APP for the construction of the Shooting Lodge including car park, patio and other incidental works.
- 6.2 Condition 4 of that permission reads:

'The building hereby approved shall only be used as a shooting lodge in connection with game shoots operated on and from the land, and for no the purpose including overnight or

residential accommodation, retail sales to visiting members of the public or as a venue for hire.'

6.3 The applicant has submitted a Section 73 Variation of Condition application which seeks to vary condition 4 as follows:

- to permit the use of the existing shooting lodge for clay pigeon and simulated shooting
- to allow the existing shooting lodge to be used for the sales of goods to members of the public attending shooting events at the site
- to allow two existing storage rooms at first floor level within the shooting lodge to be used for overnight accommodation for clients attending shooting events

## 7.0 RELEVANT PLANNING HISTORY

99/01977/APP - Erection of shooting lodge associated storage buildings and vehicular access (retrospective) - Approved

04/01902/APP - Extension and conversion of shooting lodge to detached dwelling - Withdrawn

05/01557/APP - Mobile home for gamekeeper - Refused

06/02415/APP - Agricultural building (retrospective) - Approved

06/02416/APP - Siting of mobile home (Retrospective) - Withdrawn

07/01887/APP - Siting of mobile home (retrospective) - Approved

10/01141/APP - Erection of replacement two storey shooting lodge with associated access to highway and parking - Approved

10/02206/APP - Erection of agricultural workers dwelling - Approved

12/00678/APP - Revised siting of Gamekeepers dwelling (amendment to planning permission 10/02206/APP) – Approved

13/03562/APP - Erection of single storey rear conservatory extension and single storey side extension. - Withdrawn

14/00974/APP - Siting of mobile home (retrospective) - Refused

14/02036/APP - Installation of electric gates and piers (retrospective) - Approved

14/02604/APP - Retrospective application for the construction of the Shooting Lodge including car park, patio and other incidental works. - Approved

14/03531/APP - Retention of mobile home. – Refused. Appeal dismissed

15/03801/APP - Retention of three outbuildings in connection with an existing game bird rearing and shooting enterprise and area of hardstanding (part retrospective). - Approved

16/04003/APP - Conversion of part of agricultural building to residential use (C3) including formation of small curtilage, parking, internal alterations and temporary retention of a mobile home for residential use until the conversion is ready for occupation. - Refused

17/04003/APP Conversion of part of agricultural building to residential use (C3) including formation of small curtilage, parking, internal alterations and temporary retention of a mobile home for residential use until the conversion is ready for occupation-Refused. Appeal dismissed

## 8.0 PARISH/TOWN COUNCIL COMMENTS

8.1 Wotton Underwood Parish Council objects to the application and fully supports the objections raised by one of the objectors (Mr Graham Lucas).

## 9.0 CONSULTATION RESPONSES

9.1 **Environmental Health:** No objections

- 9.2 Proposed condition 4 lifts the restriction on its use solely for people attending game shoots. The use of the lodge is not an inherently noisy activity, whilst the shooting activities are. AVDC Enforcement Officers will investigate any future complaints of noise or breaches of planning under relevant regulations, and where necessary take formal enforcement action.
- 9.3 **Bucks CC Highways**
- 9.4 Initially requested that further information be submitted and justification as to why the applicant did not anticipate that the proposed variation of condition would not result in an increase in vehicle movements.
- 9.5 Following receipt of additional information, the County Highway Authority now consider that it is clear that the proposed variation of condition relates to the use of the lodge, not the entire site. Currently clay and simulated shooting can be carried out as permitted development for up to 28 days a year, and there is no restriction on numbers attending these events. Therefore the proposed variation of condition solely for the use of the lodge in connection with these shooting activities would not increase the number of vehicle movements to and from the site.
- 9.6 The proposed variation of condition solely for the use of the lodge in connection with these already permitted shooting activities (under permitted development) would not in itself increase the number of vehicle movements to and from the site.
- 9.7 The creation of two rooms for overnight accommodation for two people would not result in a material intensification of the access compared to the existing number of vehicles visiting the site to use the shooting facilities.
- 9.8 As this would not result in a material increase in vehicle movements through the existing access, BCC Highways are unable to justify asking for the access to be upgraded. However they are satisfied that sufficient visibility can be achieved through the existing access.

## 10.0 REPRESENTATIONS

- 10.1 39 letters have been received from local residents objecting to the application to vary condition 4 of Planning Permission 14/02804/APP). These letters raise the following points of concern:

### *Issues relating to the planning history of the site/compliance with regulations*

- Owner of Tittershall Woods has failed to comply with many planning requirements.
- The lodge was built much larger than permitted as always been intention to build a commercial shooting establishment.. Then had to apply for retrospective planning.
- The venue has been used for wedding functions.
- Owner and employees have disregard for locals and have not followed the rules.
- They have had to remove illegal erected scaffold towers to house the clay traps.
- After 13 years the applicants have removed the illegal mobile home which should have been removed when Game Keepers House was built.

### *Economy/ long term impacts of proposed variation of condition*

- The enterprise does not contribute to local economy as owners live in London.
- The variation of condition 4 will add nothing except noise traffic and individuals that fail to understand communities.
- Applicants will chip away until achieve long term aim of clay shooting 5-6 days per week.

### *Intensification of use of the shooting lodge*

- It is acknowledged that will no increase in the number of clay shooting events, but If allowed to market and use the lodge facility in connection with clay shooting, it will lead to an increased numbers using the facility, leading to more people, more shots and more noise and more traffic.
- The lodge could be used to host major clay pigeon shooting competitions, and could exceed 250 people shooting per day.
- Most 28 rule clay shoots have rudimentary facilities use a small wooden shed and do not have luxury of restaurant and bar facilities.
- The 28 day Permitted Development Rule (class B-temporary use of land) would normally only allow moveable structures to be used and the lodge is not a moveable structure.

### *Noise/Residential amenity*

- Shooting should not normally take place with separation distances of less than 1km.
- Tetchwick residents, less than 700m away from the shooting ground, are already affected by the shooting facility; noise can be heard with windows shut and TV on.
- The planning agent for approved application 14/02604/APP stated there would never be a clay shoot and that if there was there could be 150 guns.
- Now in situation where there could be 150 to 200 guns with potential to generate 400 vehicle movements per hour.
- Increased noise at weekends.
- Noise transmission carries more in winter.
- If application approved noise situation will worsen and would be a statutory nuisance.
- Nearest residential properties are not 1.2 km to west but 365m to north (Tetchwick Moat House) .
- Travellers site is 240m to south-east.
- Shoots can be heard from properties in Tetchwick and interrupts enjoyment of properties.
- Level of noise in Tetchwick has risen considerably in the last year.
- Increase in noise disturbance at Ludgershall.
- Area is widely used for horse riding and loud noise can cause alarm to horses/injure riders
- Detrimental impact of noise on pets.

### *Game/ Clay pigeon shooting*

- Game shooting in winter months (1<sup>st</sup> September to 1<sup>st</sup> February) creates less disturbance, intermittent at changing locations. It is more traditional and less of a nuisance than clay pigeon shooting.
- Extra clay pigeon shoots are often in summer months when people are outside in their gardens.
- Game shooting lasts for a short time when residents are in their homes with doors and windows shut.

- Game shooting has only 8-10 people shooting, but clay pigeon shooting has 150 to 200 people shooting each day.
- Applicants originally stated in 2011 that they would not use the site for clay pigeon shooting.
- Tittershall Lodge has hosted game shooting for many years, but not clay pigeon shooting.
- Clay pigeon shooting has only taken place for one year.
- The lodge would never have received permission for clay pigeon shooting.
- Applicants have failed to adhere to guidelines issued by Institute of Environmental Health on Clay target shooting.
- Clay pigeon shooting is very disruptive.
- There is increased uninterrupted barrage of noise with clay pigeon shooting comprising 500-800 shots per day.
- Potential for growth in clay pigeon shooting will have negative impact on local area because of increased shots and increased frequency.
- Whilst no problem with true country sports, this is a commercial business.
- Clay pigeon shooting has the potential to be encouraged to reach full capacity as will be profit driven.
- The shooting activities have exceeded 28 day rule.

#### *Contamination*

- Overall site is less than 100m from Flood Zone 3. Increase in shooting and lead shot fall out could cause contamination to water source.

#### *Rights of way/signage*

- There are a number of rights of way surrounding the site and clay shooting activities have an effect on these.
- Shooting affects enjoyment of use of public footpaths.
- Footpath signs are often taken down, signs thrown into ditches and not replaced.
- Footpaths have been closed at various times of year so residents/walkers are unable to enjoy countryside.
- Danger signs on footpaths should not be a scare tactic for local walkers.

#### *Overnight accommodation*

- Accommodation proposal indicates intention to perpetuate the proposed use to commercial levels.
- The applicant has just lost the mobile home after being illegally sited for 13 years and this request to accommodate 1-2 people comes very close in terms of a timeline just after that happening
- It is another way of offsetting loss of the mobile home, and would be likely to be used by employees.
- With existing arrangements regarding storage of club guns and bar provisions, it could create security issues.

### *Highway/traffic*

- Entrance is on a fast and dangerous stretch of road on tight bend in Kingswood Lane with limited vision.
- Road is in poor condition suffering subsidence.
- Road is often flooded and during wet periods soil and stones are dragged onto the highway from vehicles using unsurfaced track.
- Roads are used by walkers, cyclists and horse riders.
- Access has been subject of near misses with vehicles emerging onto the bend.
- Point of access is close to a caravan park.
- A41 is dangerous and both junctions with Kingswood Lane and Tetchwick are dangerous
- Intensification of use of lodge with large shooting parties coming and going detrimental to highway safety.
- Planning condition was included for good reason-to achieve balance between commercial interests of owners and local residents.
- BCC Highways requested restrictive wording due to substandard access. Additional vehicles using entrance on poorly maintained road on bad bend.
- BCC Highways are right to be concerned about the reliability of the applicant's statement that proposed change of use would not result in increase in the number of vehicle movements.

## **11.0 EVALUATION**

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

- 11.1 The starting point for decision making is the development plan, i.e. the adopted *Aylesbury Vale District Local Plan (AVDLP)*. 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* (the Framework) and the *Planning Practice Guidance* (PPG) are both important material considerations in planning decisions. Neither changes 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 Framework, PPG and other material considerations.
- 11.2 The Council has set out proposed policies and land allocations in the draft Vale of Aylesbury Local Plan. 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. The site is within the open countryside outside of the settlement of Wotton Underwood, and there is no neighbourhood plan for Wotton Underwood. The determination of this application needs to consider whether as a result of the proposed variation of condition the proposal would constitute sustainable development, having regard to Development Plan policy in the AVDLP and the Framework as a whole.
- 11.3 Paragraph 170 of the NPPF states that planning policies and decisions should contribute to

and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

11.4 Saved Policy GP35 of the AVDLP requires amongst other things that development respects and complements the physical characteristics of the site and surroundings and does not adversely impact upon environmental assets. These objectives are broadly consistent with the core planning principles of the Framework to always take account of the different roles and character of different areas, and to recognise the intrinsic character and beauty of the countryside.

11.5 Saved Policy RA 4 of the AVDLP states that in considering proposals for the recreational use of land outside the built-up areas of settlements the Council will have particular regard to:

- a) the visual effect of car parking and access roads;
- b) the siting and design of any associated buildings;
- c) the accessibility of the site, including public transport links and walking or cycling networks; and
- d) agricultural land quality and the effect on land drainage.

11.6 Planning permission was granted for a shooting lodge in 1999 under planning permission 99/01977/APP, and for a replacement shooting lodge in 2010 under planning permission 10/01141/APP. The officer's report for 10/01141/APP acknowledged that the shooting activities are ideally suited to the countryside location. Retrospective Planning Permission 14/02604/APP for the shooting lodge at Tittershall Wood was granted on 5<sup>th</sup> January 2016. The building consented in 2016 was larger than that which had previously existed on the site and had improved facilities; this was as a result of the owners wish to improve facilities at the site to meet a rising demand for game and subsequent rising standards in catering and presentation. It was clear that given the open countryside location, the unrestricted use of the lodge would have been unacceptable in principle and in terms of the impact on highway safety and convenience. Following consultation with the Highway Authority, Planning Permission 14/02604/APP was granted subject to the following condition and reason (Condition 4):

:

*The building hereby approved shall only be used as a shooting lodge in connection with game shoots operated on and from the land, and for no other purpose including overnight or residential accommodation, retail sales to visiting members of the public or a venue for hire.*

*Reason: The building has only been approved in the light of the guidance in Para 17 of the NPPF because of the special needs of game shoots operated on and from the land. This control is necessary to prevent inappropriate uses taking place and in the interests of highway safety given the substandard nature of the access to the site.*

11.7 Together with a landscaping condition, and condition requiring the retention of parking, it was considered that the retrospective application for the shooting lodge complied with policies GP35 and RA4 of the AVDLP and the NPPF principle which seeks to support the intrinsic character of the countryside. The principle of a shooting lodge on the site to cater for beaters, shooters and their guests has therefore been established.

11.8 The applicant now wishes to vary the condition 4 as follows:

- to permit the use of the existing shooting lodge for clay pigeon and simulated shooting
- to allow the existing shooting lodge to be used for the sales of goods to members of the public attending shooting events at the site

- to allow two existing storage rooms at first floor level within the shooting lodge to be used for overnight accommodation for clients attending shooting events.

11.9 It remains to be considered whether proposed variation of condition 4 of Planning Permission 14/ 02604/APP to allow the use of the lodge for clay pigeon and simulated shoots in addition to game shoots, sales of goods to guests attending shooting events and the use of two existing rooms for overnight accommodation for shooting clients would constitute a sustainable form of development when assessed against the material planning considerations within the NPPF.

**(b) Whether the proposal would be a sustainable form of development**

- ***Building a strong competitive economy***

11.10 The NPPF states at paragraph 83 that planning authorities should support sustainable growth in rural areas to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, the sustainable growth and expansion of all types of business and enterprise in rural areas, and the development and diversification of agricultural and other land-based rural businesses, should be supported. In addition, the paragraph advises that support should be given to sustainable rural tourism and leisure developments that have the potential to benefit businesses in rural areas, and which respect the character of the countryside.

11.11 Saved AVDLP policy GP72 states that proposals for the conversion or change of use of existing rural buildings to self-catering holiday accommodation will be considered against the background of the Council's Tourism Strategy, and the need to protect the character and appearance of the countryside. In granting permission the Council will impose conditions or seek planning obligations to control the use and occupation of holiday accommodation.

11.12 In support of the application to vary condition 4 of Planning Permission 14/02604/APP, the applicant has explained that clay and simulated shooting events are a lawful uses which can be carried out up to 28 days a year and that these events are already in operation in Tittershall Wood. Currently condition 4 only allows for game shooting clients to use the shooting lodge. Given the similar nature of the different uses, the applicant considers that it is not reasonable to permit clients participating in one type of shooting use and restrict the other types from using the lodge, and that the condition should be varied to allow members of the public attending clay and simulated shooting events to also use the lodge.

11.13 The applicant also considers that the current condition preventing retail sales to visiting members of the public is currently flawed, as it suggests that members of the public cannot use the lodge. However the shoot is not a membership organisation so technically all shooters are members of the public. It is suggested that this condition be varied to enable members of the public attending shooting events to purchase goods whilst attending shooting events. The applicant considers that this would prevent the lodge from becoming a retail destination whilst ensuring the proper operation and function of the lodge. The applicant also notes that many of the clientele expect to be able to purchase shooting goods at the premises, and considers that this is a reasonable expectation.

11.14 It is acknowledged that the site at Tittershall Lodge can be lawfully used for clay pigeon and simulated shooting for up to 28 days per year, and that it would seem reasonable and justifiable to allow members of the public attending these events to also use the shooting lodge as this would use an existing facility at the site be beneficial to the business. It is also acknowledged that it would be beneficial to the business for clients attending shooting events to be able to purchase goods at the lodge. Therefore it is considered that the



proposed variation of condition would accord with Para 83 of the NPPF which seeks to promote a strong rural economy, the sustainable growth and expansion of all types of business and enterprise in rural areas

- 11.15 The applicant considers that the use of two rooms within the existing lodge for overnight accommodation for clients travelling from a distance would be beneficial to the business use of the site and has confirmed that this would not be permanent residential accommodation.
- 11.16 Whilst the use of the lodge for unrestricted overnight accommodation has previously been considered unacceptable, the applicant is proposing to use only two existing storage rooms in the roofspace of the lodge for overnight accommodation. Policy GP72 specifically encourages the conversion of buildings in rural locations to increase the stock of holiday accommodation which accords with Paragraph 83 of the NPPF supporting rural tourism. The proposal would use two existing rooms in the lodge. Therefore it is considered that the use of just two rooms for overnight accommodation for guests attending shooting would support sustainable rural tourism, and benefit the game bird rearing enterprise in accordance with Para 83 of the NPPF and Policy GP72 of the AVDLP
- 11.17 The site is within an open countryside location. For the avoidance of doubt as to what is hereby being permitted, in the interests of tourism and economic vitality of the countryside, and because the Council would not accept any additional dwellings on this site due to its open countryside location, the Council's solicitor has confirmed that it would be appropriate and reasonable to impose two new additional conditions. These new conditions would ensure that the resulting accommodation shall only be lived in as short term overnight accommodation for guests attending shooting events, and in relation to the two rooms specified on the submitted plan, and would require that those rooms shall not be occupied by the same person or persons for more than 28 days in any six month period.
- 11.18 The benefit to the rural economy that would be achieved through the variation of condition 4 of Planning Permission 14/02604/APP should be afforded positive weight in the planning balance.

- ***Conserving and enhancing the natural environment***

- 11.19 This application to vary Condition 4 of Planning Permission 14/02604/APP relates to the use of the existing shooting lodge on the site. Simulated and clay pigeon shoots already take place at Tittershall Wood as a lawful use under the 28 day rule, and the use of the lodge and existing parking area, by clients attending shoots, will not require any external alterations to be made to the lodge or parking area. Neither will the sales of goods to existing shooting clients using the lodge require any external changes to be made to the shooting lodge.
- 11.20 The proposal to use two storage rooms within the loft space for overnight accommodation does not involve the insertion of any new window openings, and any clients using this facility would use the existing parking area adjacent to the lodge. As such the proposal would not result in any greater visual impact than the already permitted use on the site.
- 11.21 The proposal to vary condition 4 of Planning Permission 14/02604/APP therefore accords with Policy GP35 of the AVDLP that development respects and complements the physical characteristics of the site and surroundings and does not adversely impact upon environmental assets, and with the NPPF which requires that development respects intrinsic character and beauty of the countryside. This should be afforded neutral weight in the planning balance.

*Impact upon public rights of way*

11.22 There are a number of public rights of way to the south, south-west and east of the site. However the variation of condition relates only to the use of the shooting lodge and these would not be impacted by the proposal. Therefore the proposal would accord with Policy GP84 of the AVDLP and should be afforded neutral weight in the planning balance.

- **Promoting sustainable transport**

11.23 The promotion of sustainable transport is a principle of the NPPF which advises that it is necessary to consider whether the proposed development is located where the need to travel will be minimised.

11.24 The site relates to an existing shooting lodge in the open countryside and the principle of the shooting lodge in this location has been accepted due to the special needs of game shoots operated on and from the land.

11.25 Paragraph 109 of the NPPF (2018) 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.

11.26 Policy RA4 requires the visual effect of car parking and access roads to be considered.

11.27 The permission for the lodge has been the subject of permissions under 10/01141/APP and 14/02604/APP. The County Highway Authority entered into discussions with the applicant regarding issues around the access. At that time, concerns were raised with regards to the visibility splays and construction of the access to serve the proposed development. The applicant and the Highway Authority came to an agreement that the imposition of Condition 4 would ensure that the replacement shooting lodge would not materially increase vehicle movements from the site. Clay pigeon and simulated shoots are currently permitted up to 28 days a year. There is currently no restriction on the number of people/vehicles attending these events. Therefore the proposed variation of condition solely for the use of the lodge in connection with these already permitted shooting activities (under permitted development), would not in itself increase the number of vehicle movements to and from the site. The sale of goods to members of the public attending shooting events would also not in itself increase the number of vehicle movements to and from the site. The creation of two rooms for overnight accommodation for two people would not result in a material intensification of the access compared to the existing number of vehicles visiting the site to use the shooting facilities. Furthermore the Highway Authority are satisfied that sufficient visibility can be achieved through the existing access. Consequently it is considered that the proposed variation of condition would be acceptable in terms of highway safety and convenience.

11.28 Policy GP24 of AVDLP seeks to ensure satisfactory levels of car parking are provided appropriate to the level of development. The parking area permitted under Planning Permission 14/02604/APP adequately serves the shooting lodge. Given the ancillary nature of the development proposed no additional parking is required to be provided as a result of the variation of condition. Therefore the proposed variation of condition accords with Policy GP24 of the AVDLP.

11.29 It is considered that variation of condition would have an acceptable impact upon highway and parking issues and should be afforded neutral weight in the planning balance.

- ***Impact upon the amenity of neighbouring residential properties***

- 11.30 Policy GP8 of the Aylesbury Vale District Local Plan (AVDLP) (2004) 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.
- 11.31 Policy GP95 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.
- 11.32 Paragraph 127 of the NPPF states that developments should ensure a high standard of amenity for existing and future users.
- 11.33 The application to vary Condition 4 of Planning Permission 14/02604/APP, to enable the existing shooting lodge to be used by clients attending clay pigeon and simulated shooting events in addition to allowing it to be used for the game shooting events, has resulted in a large number of letters of objection being received from members of the public who are concerned that the variation of condition will give rise to increased shooting noise. There is concern that clay pigeon is more disruptive as it takes place at different times of year than game bird shooting. However in response to this the land at Tittershall Lodge can lawfully be used for clay and simulated shooting for up to 28 days a year, and the variation of condition application relates only to the use of the shooting lodge by members of the public already attending those events. The applicant's agent has confirmed that the frequency of shoots is not proposed to increase. The Environmental Health Officer has been consulted on the application, and notes that the use of the lodge is not an inherently noisy activity whilst the shooting activities are. As this application relates only to the use of the lodge by members of the public already attending clay and simulated shooting events, the proposed variation of condition would not give rise to any further noise issues such that the suggested variation would be considered unacceptable.
- 11.34 Several members of the public have raised concerns that enabling the lodge to be used by members of the public attending clay and simulated shooting events will make the events more attractive and result in an increase in the number of people attending them. However in response to these concerns, if the current condition remains in place restricting the use of the lodge to members of the public attending game shoots, the applicant could bring in mobile catering/marquee facilities to effectively enable the same facilities to be provided by alternative means. Given what could already be achieved through permitted development, and the lack of demonstrated harm, it would not be reasonable to restrict the use of the lodge only to those members of the public attending game shoots.
- 11.35 Given that the only dwelling in close proximity is the gamekeeper's dwelling on the site, which is within the ownership of the site, the proposed use of two existing storage rooms within the lodge for overnight guest accommodation would also have no detrimental impact upon the amenity of any neighbouring residential properties.
- 11.36 It is acknowledged that one of the reasons for imposing condition 4 of Planning Permission 14/02604/APP was to prevent inappropriate uses taking place at the site in the form of unrestricted events not associated with the business and unrestricted retail sales. It is not considered that the proposed variation of condition 4 would have a detrimental impact upon any aspect of residential amenity. Therefore this should be afforded neutral weight in the planning balance.

- **Other matters**

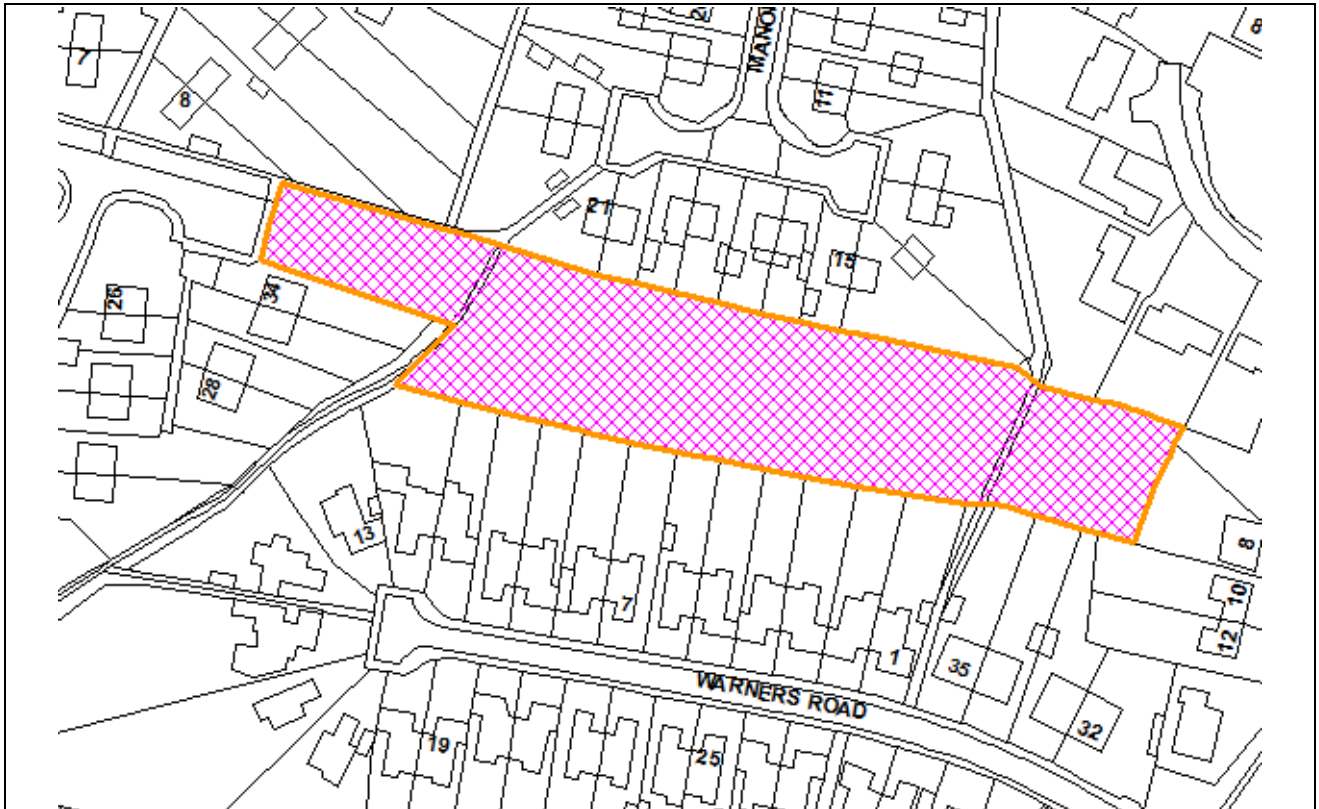
- 11.37 One objection expresses a concern that an increase in shooting and lead shot would lead to contamination to the water source. However as the application relates only to the use of the lodge by existing uses and no increase in shooting is proposed, this is not material to consideration of the application
- 11.38 Issues have been raised about compliance with planning regulations and the shooting activities on the wider site. These are not material the variation of condition 4 of Planning Permission 14/02604/APP. However AVDC Enforcement Officers will investigate any future complaints of noise or breaches of planning under relevant regulations, and where necessary take formal enforcement action

***What condition is required to ensure the reason and intention of the varied condition is still met***

- 11.39 The planning practice guidance states ‘ Where an application under Section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. ‘
- 11.40 In order to set out the same intentions as set out by the original condition, the condition should be varied to identify the approved drawings of the previous permission that are still valid and unaltered and the amended plan put forward by this proposal. Other conditions should be repeated, identifying those that relate to details approved under the previous permission.

Case Officer: Mrs Diana Locking

15/02242/AOP	
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REFERENCE NO	PARISH/WARD	DATE RECEIVED
15/02242/AOP	NEWTON LONGVILLE The Local Member(s) for this area is/are: -	06/07/15
OUTLINE PLANNING APPLICATION FOR THE ERECTION OF 6 TWO-BED AND 9 THREE-BED DWELLINGS, NEW ACCESS AND ASSOCIATED PARKING LAND BETWEEN COBB HALL ROAD AND DRAYTON ROAD	Councillor N Blake Councillor B Everitt	
DIOCESAN TRUSTEES (OXFORD) LTD		
STREET ATLAS PAGE NO. 57		

**1.0 The Key Issues in determining this application are:-**

- a) The planning policy position and the approach to be taken in the determination of the application.**
- b) Whether the proposal would constitute a sustainable form of development:**
  - **Building a strong competitive economy**
  - **Delivering a sufficient supply of homes**
  - **Promoting sustainable transport**
  - **Conserving and enhancing the natural environment**
  - **Conserving and enhancing the historic environment**
  - **Promoting healthy and safe communities**
  - **Achieving well designed places**
  - **Making effective use of land**
  - **Meeting the challenge of climate change and flooding**
  - **Supporting high quality communications**
- c) Impact on existing residential amenity**
- d) Developer contributions**

### e) Other matters

The recommendation is that permission be **deferred and delegated** to Officers for approval following the satisfactory completion of a Section 106 agreement in respect of securing financial contributions towards off-site leisure and education; any permission to be subject to such conditions as are considered necessary (as set out in the report). Or if a legal agreement is not completed, for the application to be refused by Officers for reasons considered appropriate.

## 2.0 CONCLUSION AND RECOMMENDATION

- 2.1 The application has been considered in the light of the Development Plan and NPPF guidance. The report has assessed the application against the overarching objectives of the NPPF and it has been considered whether the proposal represents a sustainable form of development. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 2.2 The development site comprises redundant land within the built up area with previous permissions for housing development. The development would make a contribution to the housing land supply which, is a benefit to be attributed significant weight in the planning balance, albeit it tempered by the scale of the development to moderate weight. In addition, there would also be economic benefits in terms of the construction of the development itself and those associated with the resultant increase in population to which moderate weight should be attached.
- 2.3 Compliance with some of the other objectives of the NPPF have been demonstrated in terms of promoting sustainable transport, preserving residential amenities and promoting healthy communities. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm to which weight should be attributed neutrally.
- 2.4 The assessment has also concluded that whilst the proposal would impact on the natural environment, the site specific characteristics together with the biodiversity measures and

planting proposed would provide sufficient physical and visual containment to the site, and it is not considered that the development would unacceptably intrude on neighbours and would have limited impact upon the local landscape such that this factor should only be afforded limited negative weight.

- 2.5 Weighing all the above factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the AVDLP and supplementary planning documents and guidance, in applying paragraph 11 of the NPPF, it is considered that this is a balanced judgement and that the limited impact of the development would not significantly and demonstrably outweigh the benefits in that balance and there is therefore a presumption in favour of this as a sustainable development.

### **3.0 INTRODUCTION**

- 3.1 The application has been submitted by Diocesan Trustees (Oxford) Ltd, however members attention is drawn to the fact that the application relates to land which is owned by Aylesbury Vale.
- 3.2 Members of the planning committee are advised that whilst AVDC has an interest as partial landowner, the council (AVDC) are the local planning authority with responsibility for regulating the development of land. Members are advised of the need to consider planning applications under the legislative framework, in coming to a decision on the proposals, and can only determine the proposals on the basis of the relevant planning issues.
- 3.3 This application was considered by the Development Management Committee on 19 May 2016 when it was resolved that the application be deferred and delegated to officers for approval following the receipt of satisfactory completion of a legal agreement and planning permission was subsequently granted on 10 November 2017.
- 3.4 Following the District Council's decision to grant planning permission a legal challenge was made by a third party interest who applied to the High Court for a judicial review of the planning permission. Ground 1 related to the committee resolution to grant planning permission for residential development 'delegated to officers... subject to such conditions as are considered appropriate and to include a condition requiring that a reserved matters application be made within 18 months of the date of permission and that any permission arising from that application be implemented within 18 months'. In exercising delegated powers AVDC issued the planning permission requiring implementation within 3 years instead of the 18 months required by the Committee. But that matter was neither raised with members nor addressed in the delegated report published by the Council. The claimant also raised 2 further grounds in its claim which in summary challenged the adequacy of the Defendants decision making, the reasons for granting the application and



the purpose for which the S106 education contribution was to be applied, namely for a different purpose to that stated in the committee report and failure to have regard to material considerations namely the representations of the proposed Claimant.

3.5 The claimant was granted permission to proceed on all 3 grounds on the 4 February 2018, the Council conceded by sealed consent order dated 29 March 2018 that the Claimant's application for judicial review should be allowed on ground 1. The council did not concede the further grounds. A copy of the Consent Order is appended to the report for Members reference.

3.6 The application has been remitted back to AVDC to re determine. The application needs to be determined by committee as the Parish Council on the basis of the original comments already provided on the application and confirms that it will speak at the Committee meeting.

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

4.1 The application site comprises some 0.5ha of land in the centre of the village. It is an elongated site positioned between Manor Road to the north, Drayton Road to the east, Warners Road to the south and Cobb Hall Road to the west.

4.2 The site is largely flat and overgrown with trees and shrubs with hedgerows along parts of the site boundaries. At the western end of the site is a grassed and overgrown area at the end of the turning head of Cobb Hall Road, which is owned by the District Council. The remainder of the land is owned by the applicants.

4.3 Two footpaths (Footpath 11 and 12) cross the site in a north-south direction, one linking Warners Road with Whaddon Road to the east and one linking Manor Road with Westbrook End to the west.

4.4 On the north side, the properties in Manor Road backing onto the site are two-storey semi-detached dwellings and detached two-storey properties in St Faiths Close, whilst on the south side the Warner Road properties backing onto the site are bungalows.

#### **5.0 PROPOSAL**

5.1 This application seeks outline planning permission for the erection of six two-bed and nine three-bed dwellings, new access and associated parking. This application would renew the outline permission approved in 2012 under reference 11/01767/AOP for the same development on the same site. The previous permission was renewal of an earlier original outline planning permission 07/00347/AOP for the same development. Only access is considered as part of this application together with parking. The same indicative layout drawing approved in the previous permissions has been submitted for this application.

- 5.2 All housing is indicated to be two-storey and they would follow a linear form along an east-west axis with the main access road formed from the cul-de-sac at the end of Cobb Hall Road. The layout show 12 houses positioned along the southern boundary facing the rear of the semi-detached properties located in Manor Road to the north, with three units facing west at the eastern end of the site.
- 5.3 Vehicular access is shown to be taken from the turning head in Cobb Hall Road with an estate road extending along the northern boundary of the site terminating in a turning head at the eastern end of the site. An existing footpath running along the northern side of the proposed estate road is outside the application site and unaffected. Two additional footpaths crossing the site at either end would be retained.
- 5.4 The committee should be aware that two previous applications for the same development have been approved by committee in 2008 and 2012. This application is in effect a further renewal of the time expired permissions.

## **6.0 RELEVANT PLANNING HISTORY**

- 6.1 00/01139/AOP - Erection of 7 no. 3 bedroom and 5 no. 2 bedroom dwellings – Withdrawn
- 6.2 07/00347/AOP - Erection of 6 No. two bed & 9 No. three bed dwellings, new access and associated parking – Outline Granted
- 6.3 11/01767/AOP - Application to extend the time limit of 07/00347/AOP (Erection of 6 two bed and 9 three bed dwelling, new access and associated parking) – Granted

## **7.0 PARISH/TOWN COUNCIL COMMENTS**

7.1 Newton Longville Parish Council oppose the application for the reasons originally provided on the application. The Parish Council's objections can be summarised as follows:-

- Impact on neighbours
- Access rights questionable
- Questions sustainability of development
- Very constrained narrow site and cramped layout impacting on future occupiers and existing neighbours. Provision should be made for informal green space.
- Request Grampian condition to secure safe access.
- No provision for affordable housing.
- Questions validity of assumptions in Transport Statement on rural nature of highway network and speed limit of 30mph and speed reduction measure needed for pedestrians and cyclists safety in Westbrook End
- No cycle parking provision.
- Contributions should be made for public transport.

7.2 A copy of the full Parish Council comments are appended to this report.

## **8.0 CONSULTATION RESPONSES**

8.1 Environment Agency – Low environmental risk and comments of Lead Local Flood Authority (LLFA) should be sought.

8.2 LLFA – No objections subject to condition.

8.3 Rights of Way Officer – No objection subject to condition.

8.4 Education – No objection subject to mitigation contribution for secondary school places.

8.5 Highways – No objection subject to previous conditions reapplied.

8.6 Leisure – No objection subject to a financial contribution towards off-site leisure.

8.7 Tree officer – No objection subject to condition

8.8 Ecology – Updated review - No objection subject to conditions

## **9.0 REPRESENTATIONS**

9.1 A total of 19 neighbour replies had originally been received comprising 19 objections and one neutral comment on right of way. The original grounds for objections can be summarised as follows:-

- Loss of green/open space
- Pressure on limited school places which is over capacity
- Pressure on local amenities and facilities
- Loss of Kite/Bat/wildlife habitat
- Traffic congestion and highway safety
- Pressure on sewerage system
- Access for emergency and public service vehicles
- Noise and pollution from access road/intrusive
- Impact on residential amenity/loss of privacy from overlooking
- Disturbance from construction work
- The land is needed for other purposes in the village eg a green play space, allotments and cemetery

9.2 Since the re-advertisement and consideration of the application a further 10 letters of representation have been received, in part reiterating those earlier points raised above, and the following additional material planning considerations;

- The land is needed for other purposes in the village eg a green play space, allotments and cemetery
- There is insufficient width to allow two way traffic given the current residents parking on the access road.
- The proposal would result in loss of amenity and overlooking given the variation in ground levels
- The application has not been implemented in line with the timescales set and therefore there is not certainty for local residents
- The density of the development is inappropriate
- The residents of the site would likely be dependant on the private car
- Inadequate parking provision

## 10.0 EVALUATION

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

10.1 Members attention is drawn to the overview report appended to this report which sets out the background information to the policy framework when making a decision on this application and also provides an up date on the housing land supply position and the progress on the emerging local plan.

10.2 The starting point for decision making is the Development Plan. For the purposes of this report, the Development Plan consists of the adopted Aylesbury Vale District Local Plan. 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 (February 2019) 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, NPPG 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

*Whether the proposal would constitute a sustainable form of development.*

- 10.3 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 7 to 211 of the NPPF, taken as a whole (paragraph 3). The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development for both plan-making and decision-making. It is only if a development is sustainable when assessed against the NPPF as a whole that it would benefit from the presumption in paragraph 11 of the NPPF. The following sections of the report will consider the individual requirements of sustainable development as derived from the NPPF and an assessment made of the benefits together with any harm that would arise from the failure to meet these objectives and how the considerations should be weighed in the overall planning balance.
- 10.4 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 associated with the issues together with any harm that would arise from the failure to meet these objectives and how the considerations should be weighed in the overall planning balance.
- 10.5 The NPPF promotes sustainable development and encourages consolidation of smaller rural settlements where it will enhance or maintain the vitality of rural communities. In terms of its broader location, Newton Longville is identified in the AVDLP as an appendix 4 settlement, implying that it is considered to be appropriate to allow limited small scale development of the settlement. In the Settlement Hierarchy Assessment (September 2017), Newton Longville is identified as a medium village. Medium settlements were defined as typically having a population of between around 600 and 2,000 and have between 6 – 7 of the key criteria (within 4 miles of a service centre, employment of 20 units or more, food store, pub, post office, GP, village hall, recreation facilities, primary school, hourly or more bus service and train station). They are sustainable settlements which have access to key services and facilities and it is expected that some limited development could be accommodated without causing any environmental harm and that this level of growth is also likely to help maintain existing communities.
- 10.6 Newton Longville comprises a larger size population of 1876 at the upper end of the definition for a medium village but relatively poorly connected to a large service centre

(Milton Keynes being located nearly 6 miles away), although it is closer to the train station at Bletchley and the facilities therein. With regard to key services available at a local level, they include an hourly bus service to the Horwoods and also to Milton Keynes and Leighton Buzzard), a village hall, a combined school, recreation grounds, a church, a post office, a pub and retail shops. A number of medical/GP facilities are also accessible close-by in Bletchley. Newton Longville is assessed within the Settlement Hierarchy (2017); scoring 6 out of 11 key criteria, and the HELAA (2017) indicates this site (NLV004) as having the potential for 15 housing units, given the two previous approvals.

- 10.7 Given the range of facilities and amenities, and access to public transport Newton Longville can be considered a sustainable location. However, consideration needs to be given not only to the appropriateness of development and its localised impact on the site and surroundings but also in terms of the capacity of the settlement to accept population growth having regard to the impact on infrastructure and local services and the community itself. These issues are considered in more detail under the headings below.

*Build a strong competitive economy*

- 10.8 The Government is committed to securing and supporting sustainable economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
- 10.9 It is considered that there would be economic benefits from this development in terms of the construction of the development itself through the creation of temporary construction jobs as well as creating a demand for local suppliers of goods and services from the small increase in the population brought about by the development that would contribute to economic growth which would be positive and long lasting to the local economy.
- 10.10 It is therefore considered that these benefits should be afforded weight in favour of the proposal, albeit tempered by the small scale of the proposal. However, these benefits would need to be weighed against any adverse impacts arising, which are considered below.

*Deliver a wide choice of high quality homes*

- 10.11 Local planning authorities are charged with delivering a wide choice of sufficient amount of and variety of land and to boost significantly the supply of housing by identifying sites for development, maintaining a supply of deliverable sites and to generally consider housing applications in the context of the presumption in favour of sustainable development. In supporting the Government's objective of significantly boosting the supply of homes, paragraph 61 states that within this context, the size,

type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes. 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.

- 10.12 The latest housing land supply position statement (April 2019) sets out the Council can demonstrate 5.64 years worth of deliverable housing supply against its local housing need. The April 2019 position statement replaces the June 2018 position statement and takes into account the 2019 revised NPPF, the new Planning Practice Guidance and the latest situation on the emerging Vale of Aylesbury Local Plan which is currently being examined. The overview report attached sets out the detailed clarification and background information on the HEDNA position, the new Housing Delivery Test and the approach to not include any element of unmet need.
- 10.13 In terms of the time conditions for the submission of reserved matters application and the subsequent implementation of any such consent discussion took place with the applicants regarding the possibility for a reduced timeframe condition (18 months) following the aspirations raised by Members. Officers and the applicant understood the Committees' concerns regarding the length of time that the site has had a consent for development. However, having discussed the background to the site, the applicants advised that had the site solely been within the ownership of the Diocesan Trustees then it was certain that it would have been developed already. In this instance the site is not in sole ownership of the applicant, as Aylesbury Vale District Council own part of the site and therefore requiring joint venture arrangements, overage arrangements, contracts, transfers etc to be in place prior to the marketing of the site. As such, in all this time the site has not actually been marketed yet.
- 10.14 Further, national guidance in the PPG is clear that "if the local planning authority considers it appropriate on planning grounds they may use longer or shorter period, but must clearly give their justification for doing so". Whilst we did set out reasoning for the proposed reduced time period to seek to demonstrate why the shorter time was necessary, the applicants did not consider that this was a reasonable request which led to further discussions taking place. These discussions concluded that in light of the circumstances set out above and the steps involved in progressing this site to marketing stage it was agreed that it would not be justified to request an 18 month condition in this instance.

- 10.15 There is no reason that the site could not be delivered within the next five year period making a contribution to housing land supply having regard to the current 5 year housing land supply (5YHLS) position. This proposal would contribute to the housing land supply and provide a choice of quality homes to which significant weight should be given, albeit tempered by non-planning delays in delivery to date and relatively modest scale of development, in accordance with paragraphs 47 and 49 of the NPPF.
- 10.16 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 1ha or more. Neither threshold is met.

*Promoting sustainable transport*

- 10.17 It is necessary to consider whether the proposed development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved, taking account of the policies in the NPPF. Paragraph 108 requires that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access to the site can be achieved and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 10.18 As noted above, Newton Longville offers a number of local services and facilities and is located just under 6 miles from Milton Keynes, providing access to a larger service centre and employment opportunities. It is also noted that there are local buses connecting the settlement to Milton Keynes and Leighton Buzzard, with access to Bletchley train station 1.7 miles away. The submitted Transport Assessment concludes that the proposal is in an accessible location to a range of destinations with a choice of transport modes, and would not negatively impact on the local highway network.
- 10.19 The site is at the end of a cul-de-sac and the proposal comprise a new two-way access road from the end of Cobb Hall Road into the site with 15 houses located along its length on the south side and at the eastern end with a turning head. Two public footpaths cross the site. Public Footpath 12 Newton Longville Parish passes in a north-east to south-westerly direction, linking Manor Road with Westbrook End and, Via Footpath 10, east to Warner's Road. Public Footpath 11 Newton Longville Parish passes in a general north to



south direction, linking Whaddon Road and the Village Centre with Warner's Road, then beyond to Moorfield and Brookfield Road. Pedestrian access to the village centre with services amenities nearby are all within 10 minutes walking distance from the site.

- 10.20 In order to allow simultaneous two way vehicle and pedestrian flow the proposed vehicular access should be a minimum of 4.8m wide. This is clearly demonstrated on the submitted plans and it is accompanied by a 2m wide footway which stretches from within the site along the site frontage and links with the existing footway provision to the west of the site in Cobb Hall Road, and with public footpath links as set out above. As such the proposed highway arrangements would be acceptable to accommodate the vehicle and pedestrian/cycle movements associated with this proposal.
- 10.21 Policy GP24 of AVDLP requires that new development accords with published parking guidelines. SPG1 "Parking Guidelines" at Appendix 1 sets out the appropriate maximum parking requirement for various types of development. Within the site 29 parking spaces are provided against the AVDC standard maximum of 30 spaces of an adequate size that also benefit from the required level of manoeuvrability which is considered satisfactory and justified by the Transport Statement demonstrating that likely car ownership levels would amount to 26 spaces with 3 visitor spaces. 15 cycle spaces are also proposed, one for each dwelling. The internal layout to accommodate a turning head at the eastern end of the site would ensure large service/refuse vehicles could use this area for their turning manoeuvres in order to exit the site in a forward gear.
- 10.22 In summary, the County Council comment that the current application follows the previous applications 07/00347/AOP and 11/01767/AOP, and from a highway perspective appears to be identical. No alterations are proposed to the proposed layout as set out under the original applications and subject to conditions there is no objection to the proposal. It is considered the proposal would have an acceptable impact on the safety and convenience of highway users and would comply with AVDLP policy GP24 and NPPF advice.
- 10.23 On balance, it is therefore considered the proposal would not adversely impact on highway safety and therefore this factor should be afforded neutral weight in the planning balance.

*Conserving and enhancing the natural environment*

- 10.24 In terms of consideration of impact on the landscape, proposals should use land efficiently and create a well-defined boundary between the settlement and countryside and recognise the intrinsic character and beauty of the countryside. Regard must be had as to how the development proposed contributes to the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains

where possible and preventing any adverse effects of pollution, as required by the NPPF. The following sections of the report consider the proposal in terms of impact on rights of way, landscape, agricultural land, trees and hedgerows and biodiversity and contamination.

- 10.25 In addition, GP35 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.
- 10.26 In terms of the impact on the landscape, proposals should use land efficiently and create a well-defined boundary between the settlement and countryside. Permission will not be granted for development that impairs the character or identity of the settlement or the adjoining rural area. Regard must be had to how the development proposed contributes to the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains and preventing any adverse effects of pollution, as required by the NPPF.
- 10.27 The application site comprises a neglected overgrown plot of land within the settlement surrounded by housing. It is not a designated or protected site of any landscape value or ecological merit but serves as surplus land with self-seeded vegetation. The proposed indicative layout has been designed having regard to the site context and it is considered it would not have a significantly greater impact on the surrounding landscape or visual amenities of the area since, the proposed layout would follow the linear form of the site retaining the characteristics of surrounding development. Specific impacts on ecology and heritage are considered below.
- 10.28 On the basis of this assessment, it is therefore considered the proposal would have an impact on the natural environment compromising the site itself but the impact upon the wider landscape would be minimal and therefore this impact should be afforded limited negative weight in the planning balance.

#### *Biodiversity*

- 10.29 Paragraph 170 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity.
- 10.30 The application is supported by an ecological appraisal, and the Council's Biodiversity Officer confirms that there is no objection to the ecology assessment submitted in support of the application. It is considered, subject to the imposition of a condition requiring the implementation of the mitigation measures identified to protect local fauna habitats; the

proposal is acceptable and would therefore comply with the relevant NPPF advice. Overall, it is considered to afford neutral weight in the planning balance.

#### *Conserving and enhancing the historic environment*

- 10.31 The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 193 states that there should be great weight given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. Any harm or loss should require clear and convincing justification. Paragraph 189 extends this provision to non-designated heritage assets with an archaeological interest.
- 10.32 The site itself does not contain any heritage assets. A short 6m run of boundary at the eastern end of the site abuts the rear boundary of 'The Old School' building, which is situated at the southern end of the Newton Longville Conservation Area. Whilst a building of Local Note, it is not a listed building and sits approximately 25m from the application site boundary and fronts on to Drayton Road . The proposal would follow the layout and density of the local context and respect that character of the existing built environment. The separation distance between The Old School and the nearest proposed house is approximately 40m. The outline proposal does not include scale and appearance for assessment, and they are reserved matters for further approval at a later stage. Given the existing context the proposal is not considered to adversely impact on the neighbouring conservation area.
- 10.33 It is not considered the proposal would have any significant impact on designated heritage assets. Regard has been had to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the proposal is considered to preserve the character and appearance of the adjacent conservation area and there is no harm in NPPF terms. As such the development accords with AVDLP policy GP53 and the NPPF and should be afforded neutral weight.
- 10.34 The County Archaeologist has advised previously in the original application (Ref: 07/00347/AOP) consultation response that there are no sites of archaeological interest within this area and the development is unlikely to have significant archaeological implications.

#### *Achieving well designed places*

- 10.35 The NPPF in section 12 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.36 Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
- 10.37 Permission should be refused for developments exhibiting poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides.
- 10.38 Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments comply with key criteria.
- 10.39 Policy GP.35 of the AVDLP which requires development to respect and complement the physical characteristics of the site and the surroundings, the building tradition, ordering, form and materials of the locality, the historic scale and context of the setting, the natural qualities and features of the area and the effect on important public views and skylines. Policy GP.45 is also relevant and that any new development would also be required to provide a safe and secure environment for future occupiers of the site.
- 10.40 The submitted Planning, Design and Access Statement provide some background on the design vision and evolution of the proposals based on the original approval for the same development. The design responds to the linear rectangular form of the site and responds to the scale and layout of the local built context, respecting the layout of spaces within a village setting. The indicative layout of the outline proposal is considered to provide a logical solution to the physical constraints of the site and efficiently utilise this redundant space that respects character of the surrounding area and the prevailing pattern of development within the village. The detailed design on scale, appearance and boundary treatment are subject to further consideration for approval at the reserved matters stage.

10.41 In terms of the design impact of the proposal it is considered the proposal amounts to a satisfactory development of the site and subject to further approval of detailed matters, the proposal would comprise an appropriate form of design in the context of the site, in accordance with GP35 of AVDLP and NPPF advice. As such, it is considered this factor should be afforded neutral weight in the planning balance.

*Meeting the challenge of climate change and flooding*

10.42 The NPPF at Section 14, 'Meeting the challenge of climate change, flooding and coastal change' advises at paragraph 163 that planning authorities should require planning applications for development in areas at risk of flooding to include a site-specific flood risk assessment to ensure that flood risk is not increased elsewhere, and to ensure that the development is appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed. Development should also give priority to the use of sustainable drainage systems. The site is located within Flood Zone 1 and therefore considered to be at 'low risk' of flooding.

10.43 As the Local Lead Flood Authority, BCC have raised no objections to the development subject to conditions. It is not considered that the proposed development would materially increase or exacerbate flood risk on the site, nor in the wider locality. The engineer has no objection to the proposal subject to a condition to treat run-off and implementation of a SUDS strategy. Therefore, the proposed development would be resilient to climate change and flooding in accordance with the NPPF. This matter should therefore be afforded neutral weight in the planning balance.

*Impact on residential amenities*

10.44 The NPPF at paragraph 127 sets out guiding principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy GP8 of AVDLP seeks to protect the residential amenity of nearby residents whilst a core planning principle of the NPPF also seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

10.45 It is considered that the proposed layout would be of a form that would achieve a satisfactory level of amenity for the residents of the development and that the proposal would not detrimentally impact on the amenities of any existing neighbours to the site. Sufficient separation distances between dwellings is proposed and the relationship of the proposed development to those neighbouring properties would be such that there would be no undue overlooking between properties resulting from the proposal. Furthermore the

proposed and existing properties would benefit from a reasonable level of light, outlook and amenity in general and the scheme makes provision for sufficient amenity space for the new properties.

- 10.46 It is considered the proposed development would ensure an adequate level of residential amenity for existing and future occupiers in accordance with GP8 of AVDLP and NPPF advice. It is therefore considered this factor should be afforded neutral weight in the planning balance.

#### *Promoting healthy communities*

- 10.47 The NPPF seeks to achieve healthy, inclusive and safe places, promoting social interaction, safe and accessible development and support healthy life - styles. This should include the provision of sufficient choice of school places, access to high quality open spaces and opportunities for sport and recreation and the protection and enhancement of public rights of way, and designation of local spaces.
- 10.48 Policies GP.86-88 and GP.94 of the Local Plan seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. school places, public open space, leisure facilities, etc.) and financial contributions would be required to meet the needs of the development.

#### Leisure

- 10.49 The proposed development would not be of a sufficient scale to make provision for on site public open space. However, the developer would be required to make a financial contribution of £44,550 towards off-site leisure provision for specific projects, which would need to be secured by a legal agreement.

#### Education

- 10.50 County Education have advised that there would be an education requirement arising from the development amounting to 3.4 secondary school places and requests a mitigation contribution of £77,542 to fund the additional school place demand arising from this proposal through expansion of school facilities. The County Council have identified the contribution would be required to be spent on a multi-use games area to support the expansion of the Cottesloe School and is therefore part and parcel of “additional secondary school facilities at The Cottesloe School” as required by the local education authority who would be party to the s.106 agreement. The increase in pressure from the development means that the contribution is necessary to make the development acceptable and that the contribution is directly related to the development and is fairly and reasonable related in scale and kind to the development. The calculation is transparent, the amount is equal to

the requirement per the calculation and the facility is provided for the school directly affected by the development. The contribution has been agreed by the applicant.

- 10.51 Overall, it is considered that the development would adequately address the aims of the NPPF to achieve healthy communities and the requirements of AVDLP policies GP86-88 and as such, it is considered this factor should be afforded neutral weight in the planning balance.

*Developer contributions*

- 10.52 As noted above, financial contribution towards off site sport and leisure provision is a requirement which would need to be secured in a Planning Obligation Agreement to secure their delivery.

- 10.53 It is considered that such requirements would accord with The Community Infrastructure Levy (CIL) Regulations 2010. Regulation 122 places into law the Government's policy tests on the use of planning obligations. It is now unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development of this nature if the obligation does not meet all of the following tests; necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

- 10.54 In the context of this application the development is in a category to which the regulations apply. The requirement for all of the above named measures, if the proposals were to be supported, would need to be secured through a Planning Obligation Agreement. These are necessary and proportionate obligations that are considered to comply with the tests set by Regulation 122, for which there is clear policy basis either in the form of development plan policy or supplementary planning guidance, and which are directly, fairly and reasonably related in scale and kind to the development. Specific projects are to be identified within the Section 106 in accordance with the pooling limitations set out in CIL Regulation 123 to ensure that the five obligations limit for pooled contributions is not exceeded.

Case Officer: Mrs Claire Bayley

Telephone No:01296 585335



IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT  
PLANNING COURT

Claim No. CO/5862/2017

**BETWEEN:**

**R (NEWTON LONGVILLE PARISH COUNCIL)**

**Claimant**

**-and-**

**AYLESBURY VALE DISTRICT COUNCIL**

**Defendant**

**-and-**

**DIOCESAN TRUSTEES (OXFORD) LIMITED**

**Interested Party**

---

**CONSENT ORDER**

---

**UPON READING** the Claim Form and Statement of Facts and Grounds filed on behalf of the above named Claimant

**AND UPON READING** the attached Statement of Reasons justifying the Order as agreed

**AND UPON** the Defendant having conceded that the Claimant's application for judicial review should be allowed

**BY CONSENT IT IS ORDERED** that:

1. the judicial review is allowed for the reasons set out in the Statement of Reasons and the decision of the Defendant on 10<sup>th</sup> November 2010 to grant permission for 6 two-bed and 9 three-bed dwellings, new access and associated parking is quashed;
2. the matter be remitted to the Defendant for redetermination



3. the Defendant pay the Claimant's reasonable costs in respect of this claim on the standard basis to the date that this Order is signed by the Defendant such costs to be subject to detailed assessment unless agreed.
4. there be no order for costs against the Interested Party.

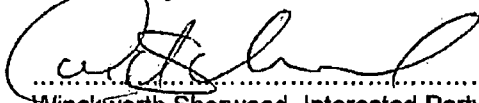
We consent to an Order in the above terms on behalf of the parties named below

Signed:

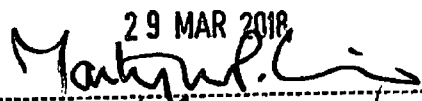
Dated: 21<sup>st</sup> March 2018

.....  
Ashtons Legal, Claimant's Solicitors

.....  
HB Public Law, Defendant's Solicitors



.....  
Winckworth Sherwood, Interested Party's Solicitors

.....  
DEFENDANT'S SOLICITORS  
COURT OFFICE  
BY CONSENT ORDER AS ASKED  
29 MAR 2018  
  
.....  
MAIRYN P. COWLIN  
Planning Court lawyer

**Statement of Reasons**

1. Members of the Defendant Council's planning committee resolved to grant planning permission for residential development "delegated to officers... subject to such conditions as are considered appropriate and to include a condition requiring that a reserved matters application be made within 18 months of the date of permission and that any permission arising from that application be implemented within 18 months".
2. In exercising their delegated authority, officers issued the planning permission requiring implementation within 3 years instead of the 18 months required by the Committee. But that matter was neither raised with members nor addressed in the delegated report published by the Council.
3. With reference to Ground 1 of the Statement of Facts and Grounds, the Defendant concedes that the Decision was *ultra vires*.

4. The Defendant therefore, considers that it is appropriate for the Court to make an Order quashing the Defendant Council's decision.
5. The Claimant also raised 2 further grounds in its claim which in summary challenged the adequacy of the Defendant's decision making, the reasons for granting the application and the purpose for which the S106 education contribution was to be applied, namely for a different purpose to that stated in the committee report.
6. Permission to proceed on all 3 grounds was granted on 4<sup>th</sup> February 2018 by Order of John Howell QC on the basis that not only Ground 1 but all the grounds are at least arguable.
- ~~7. The Defendant does not however concede Grounds 2 or 3 of the Claimant's claim.~~
8. In light of the Defendant's concessions set out above, the parties agree that it is not necessary for the matter to proceed to hearing notwithstanding the fact that the entirety of the Claimant's arguments have not been agreed.
9. The Defendant has agreed to sign this Consent Order on the basis that it pays the Claimant's reasonable costs associated with the claim up to the date this order was signed by the Defendant and that there should be no order for costs against the Interested Party.

*By the Court*



Claim No. CO/5862/2017

IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT  
PLANNING COURT

**BETWEEN:**

**R (NEWTON LONGVILLE PARISH COUNCIL)**

**Claimant**

**-and-**

**AYLESBURY VALE DISTRICT COUNCIL**

**Defendant**

**-and-**

**DIOCESAN TRUSTEES (OXFORD) LIMITED**

**Interested Party**

---

**CONSENT ORDER**

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**UPON READING** the Claim Form and Statement of Facts and Grounds filed on behalf of the above named Claimant

**AND UPON READING** the attached Statement of Reasons justifying the Order as agreed

**AND UPON** the Defendant having conceded that the Claimant's application for judicial review should be allowed

**BY CONSENT IT IS ORDERED** that.

1. the judicial review is allowed for the reasons set out in the Statement of Reasons and the decision of the Defendant on 10<sup>th</sup> November 2010 to grant permission for 6 two-bed and 9 three-bed dwellings, new access and associated parking is quashed;
2. the matter be remitted to the Defendant for redetermination,
3. the Defendant pay the Claimant's reasonable costs in respect of this claim on the standard basis to the date that this Order is signed by the Defendant such costs to be subject to detailed assessment unless agreed,
4. there be no order for costs against the Interested Party.

We consent to an Order in the above terms on behalf of the parties named below:

A handwritten signature in black ink, appearing to be "Mec", written in a cursive style.

Signed:

Dated 21<sup>st</sup> March 2018

.....  
Ashtons Legal, Claimant's Solicitors

.....  
Rosemary Lansdowne  
Senior Solicitor  
HB Public Law, Defendant's Solicitors

.....  
Winckworth Sherwood, Interested Party's Solicitors

Statement of Reasons

ADMINISTRATIVE COURT OFFICE  
BY CONSENT ORDER AS ASKED

29 MAR 2018

.....  
MARTIN P. COWEN  
Planning Court Lawyer

*in exercise of delegated  
powers - CPR Part 54.1A*

1. Members of the Defendant Council's planning committee resolved to grant planning permission for residential development "delegated to officers... subject to such conditions as are considered appropriate and to include a condition requiring that a reserved matters application be made within 18 months of the date of permission and that any permission arising from that application be implemented within 18 months".
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3. With reference to Ground 1 of the Statement of Facts and Grounds, the Defendant concedes that the Decision was *ultra vires*.
4. The Defendant therefore, considers that it is appropriate for the Court to make an Order quashing the Defendant Council's decision.
5. The Claimant also raised 2 further grounds in its claim which in summary challenged the adequacy of the Defendant's decision making, the reasons for granting the application and the purpose for which the S106 education contribution was to be applied, namely for a different purpose to that stated in the committee report
6. Permission to proceed on all 3 grounds was granted on 4<sup>th</sup> February 2018 by Order of John Howell QC on the basis that not only Ground 1 but all the grounds are at least arguable.
- ~~7. The Defendant does not however concede Ground 4 or 5 of the Claimant's claim.~~
8. In light of the Defendant's concessions set out above, the parties agree that it is not necessary for the matter to proceed to hearing notwithstanding the fact that the entirety of the Claimant's arguments have not been agreed.
9. The Defendant has agreed to sign this Consent Order on the basis that it pays the Claimant's reasonable costs associated with the claim up to the date this order was signed by the Defendant and that there should be no order for costs against the Interested Party.

*By the Court*

Application: 15/02242/AOP

For: Outline planning application for the erection of 6 two-bed and 9 three-bed dwellings, new access and associated parking

At: Land between Cobb Hall Road and Drayton Road, Newton Longville

1. Newton Longville parish council ask that the specific concerns expressed by nearby residents who have commented on the application are all carefully considered and taken into account.
2. It has been stated by Vale of Aylesbury Housing Trust that access over land owned by them is required for access to the site. This is not acknowledged within the application and if correct is a procedural error which should be corrected before the application is considered further.
3. The parish council objects to the application as submitted and requests that it is considered by committee. The parish council is willing to attend to speak.
4. The parish council acknowledges that as AVDC cannot demonstrate a five year housing supply and do not have a current local plan that such applications need to be considered in the light of paragraph 14 of the National Planning Policy Framework and whether sustainable development.
5. It is also acknowledged that to an extent the principle of residential development on this site has been established by the previously approved planning application which was then subject to time extensions. However it is now over nine years since the first application (07/00347/AOP in February 2007) was made for 15 dwellings and 12 years since the first application for 10 dwellings was made and the principle of residential use established (04/02226/APP in August 2004). It is totally inappropriate to continue to grant permission when no actual development results as this does nothing to assist housing supply.
6. Whilst the principle of residential use may have been established there have been significant changes in national planning policy since then, in particular the need for sustainable development.
7. Therefore whilst some development may have to be accepted given the lack of housing supply, it should be limited to no more than ten dwellings and should only be granted for a short time period of no more than two years. Local residents have had the uncertainty hanging over their heads for 12 years now, this is unacceptable.
8. This is a very constrained, narrow site and the current proposed layout is very cramped – a classic example of a developer trying to squeeze as much development as possible into a small space and make as much profit as possible whilst paying little regard to the living conditions of either future residents or existing nearby residents. The current proposals cannot be considered to be sustainable development as defined in the NPPF taken as a whole.

9. If permission is granted, then appropriate conditions should be imposed, including if need be a Grampian condition, to ensure there access arrangements are safe.
10. Street lighting should be provided both within the site and leading to it, to a specification to be agreed by the parish council and a commuted sum provided for future usage and maintenance.
11. The conditions proposed by Rights of Way, BCC Highways and BCC Strategic Flood Management Team should be imposed. However, as stated by the AVDC Engineering Technician, details of surface drainage must be provided and approved before any permission is granted.
12. As part of this site is owned by AVDC itself, the relevant part of AVDC should be asked to ensure that as a landowner it ensures delivery of development if permission is granted.
13. There does not appear to be any provision in the current proposal for affordable housing. As the government have now made clear for rural sites a development of this size can justify provision of affordable housing.
14. There should be some limited amount of informal green space within the development which would help reduce the otherwise cramped layout. This land should be transferred to the parish council for future maintenance. The contribution of an off-site financial contribution in lieu of on-site sport and leisure facilities is appropriate as specified by AVDC Leisure. (A separate submission is being made to AVDC Leisure as to how this is used.)
15. BCC are currently undertaking consultation about which the cabinet member responsible Cllr Mark Shaw has said: 'We don't know all the answers, so it's vital we work with communities so they can tell us what's needed locally and how we can design new approaches together. This is about listening to our residents' real needs, and not taking a guess at perceived needs. We want to see what themes emerge and plan intelligently for the longer term, and that's why we want as many as possible to talk to us through this survey.'
16. The Transport Statement provided by RPS for the applicants appears to carefully consider and quotes from various policies – but then goes to ignore these and fails to make any suitable proposals as to how those policies may be implemented by this proposed development.
17. It appears that the statement is based on incorrect assumptions and a desktop study rather than a detailed on-site consideration. In particular, anyone actually visiting the site would not possibly make the statement in paragraph 3.13 "... However the highway network is rural in nature and there is a speed limit of 30mph throughout the village. This provides an environment that is conducive to cycling journeys to local destinations." Any attempt to walk, cycle or drive along Westbrook End will be enough to show how inaccurate this is. Provision should be made for an appropriate contribution to

ensure a safer environment for both pedestrians and cyclists, including towards speed reduction measures.

18. There is only a very limited, poor bus service for Newton Longville. BCC Passenger Transport do not appear to have been asked to comment on this application. This should be done and an appropriate contribution sought to fund improvements to the bus service.
19. It is unclear what cycle parking provision is provided within the development, this should be a requirement.

Newton Longville Parish Council

14<sup>th</sup> April 2016

# Comments for Planning Application 15/02242/AOP

## Application Summary

Application Number: 15/02242/AOP

Address: Land Between Cobb Hall Road And Drayton Road Newton Longville Buckinghamshire

Proposal: Outline planning application for the erection of 6 two-bed and 9 three-bed dwellings, new access and associated parking

Case Officer: Mrs Claire Bayley

## Customer Details

Name: Mr Newton Longville Parish Council

Address: Longueville Hall, Whaddon Road, Newton Longville, Buckinghamshire MK17 0AT

## Comment Details

Commenter Type: Parish Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: For the avoidance of doubt, Newton Longville Parish Council objects to this application primarily for the reasons already given. The parish council wishes the application to be considered by the Development Management Committee and is willing to attend and speak at such a meeting.



## **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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# Agenda Item 13

## DEVELOPMENT MANAGEMENT COMMITTEE APPLICATIONS TO BE CONSIDERED

ON 15 May 2019  
IN THE DIAMOND ROOM, AVDC, THE GATEWAY, GATEHOUSE ROAD, AYLESBURY  
STARTING AT 2.00 PM

<b>Application number and location: 19/00498/APP – 6 Market Hill, Whitchurch</b>			
<b>Proposal:</b> Replacement of an existing single storey side extension with a two storey extension and the alteration to the eastern boundary wall			
<b>Case Officer: Alice Culver</b>			
<b>Councillor/Local Member(s) 5 minutes each</b>	<b>Parish Council(s) 5 minutes shared</b>	<b>Objector(s) 5 minutes shared</b>	<b>Agent/Applicant/Supporters 5 minutes shared</b>
	<b>Cllr Sue Ford (Whitchurch PC)</b>	<b>Amanda Sarraff</b>	<b>Diane Cull (Applicant)</b>

<b>Application number and location: 19/00499/ALB – 6 Market Hill, Whitchurch</b>			
<b>Proposal:</b> Removal of modern extension from garden boundary wall in the curtilage of neighbouring listed building and reinstatement and restoration of this section of the wall.			
<b>Case Officer: Alice Culver</b>			
<b>Councillor/Local Member(s) 5 minutes each</b>	<b>Parish Council(s) 5 minutes shared</b>	<b>Objector(s) 5 minutes shared</b>	<b>Agent/Applicant/Supporters 5 minutes shared</b>
	<b>Cllr Sue Ford (Whitchurch PC)</b>		<b>Diane Cull (Applicant)</b>

<b>Application number and location: 18/02618/APP – 11 The Green, Mentmore</b>			
<b>Proposal:</b> Erection of new shed/summerhouse and fence (Part Retrospective)			
<b>Case Officer: Bibi Motuel</b>			
<b>Councillor/Local Member(s) 5 minutes each</b>	<b>Parish Council(s) 5 minutes shared</b>	<b>Objector(s) 5 minutes shared</b>	<b>Agent/Applicant/Supporters 5 minutes shared</b>
	<b>Peter Brazier (Mentmore PC)</b>	<b>1. Paul Pindelski 2. Roger Shaw</b>	<b>Mrs Laurie Allen (and on behalf of Mr Nigel Allen) Applicants</b>

<b>Application number and location: 18/04264/APP – Tittershall Lodge, Kingswood Lane, Wotton Underwood</b>			
<b>Proposal:</b> Variation of condition 4 of planning permission 14/02604/APP to vary the wording of this condition to state that the building hereby approved shall only be used as a shooting lodge in connection with game shoots, simulated shoots and clay pigeon shoots operated on and from the land and the use of two rooms for overnight accommodation for clients attending shooting events, and no other purpose including, but not limited to, retail sales to members of the public other than those attending shooting events, or as a venue for hire.			
<b>Case Officer: Diana Locking</b>			
<b>Councillor/Local Member(s) 5 minutes each</b>	<b>Parish Council(s) 5 minutes shared</b>	<b>Objector(s) 5 minutes shared</b>	<b>Agent/Applicant/Supporters 5 minutes shared</b>
		1. Mr Graham Lucas 2. Elaine Lucas	Mr Graham Robinson (Agent)

<b>Application number and location: 15/02242/AOP - Land between Cobb Hall Road and Drayton Road, Newton Longville</b>			
<b>Proposal:</b> Outline planning application for the erection of 6 two-bed and 9 three-bed dwellings, new access and associated parking			
<b>Case Officer: Claire Bayley</b>			
<b>Councillor/Local Member(s) 5 minutes each</b>	<b>Parish Council(s) 5 minutes shared</b>	<b>Objector(s) 5 minutes shared</b>	<b>Agent/Applicant/Supporters 5 minutes shared</b>
	Mike Galloway (Clerk Newton Longville PC)	1. Stephen Windmill 2. Mr Geoffrey Palmer 3. Ian Whipp	Gareth Johns (Agent)