



## AYLESBURY VALE DISTRICT COUNCIL

### Democratic Services

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Text Relay Prefix your telephone number with 18001  
31 December 2019

### DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of the **Development Management Committee** will be held at **1.00 pm on Thursday 9 January 2020** in **The Oculus, 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: T Mills (Chairman), A Bond (Vice-Chairman), J Brandis, M Collins, P Cooper, N Glover, R Khan, S Morgan, M Rand, Sir Beville Stanier Bt, D Town and P Strachan (ex-Officio)

### AGENDA

**1. APOLOGIES**

**2. TEMPORARY CHANGES TO MEMBERSHIP**

Any changes will be reported at the meeting.

**3. MINUTES** (Pages 5 - 8)

To approve as a correct record the Minutes of 29 November and 19 December 2019 (Copies attached as an Appendix)

**4. DECLARATION OF INTEREST**

Members to declare any interests.

**5. OVERVIEW REPORT - DECEMBER 2019** (Pages 9 - 18)

**6. 19/01900/APP - 16A CRAFTON LODGE ROAD, CRAFTON - SITE VISIT REPORT**  
(Pages 19 - 36)



Retention of the existing barn (to include alterations and re-positioning from that approved under 13/00373/APP) along with the use of the barn for dog day care and ancillary accommodation, use of part of the dwelling (Little Chapel Stables) for dog boarding and the mixed use of land for agricultural, equestrian, grazing and the exercising of dogs.

The application went to committee on 19 December 2019, where it was deferred for a site visit to take place on 6 January 2020. The report of that site visit will be published as a supplementary report.

For information a copy of the report to the Development Management Committee on 19 December, together with the corrigendum to the report are attached.

Case officer: Janet Mullen ([jmullen@aylesburyvaledc.gov.uk](mailto:jmullen@aylesburyvaledc.gov.uk))

#### **7. 19/03076/APP - 21 CHURCHWAY, HADDENHAM - SITE VISIT REPORT**

Internal rearrangements and changes to ceiling, windows and doorways. Part demolition of existing single storey rear extension, demolition of existing garage and outbuilding. Removal of lintel, and small wall above over gateway. Part two storey, part single storey rear extension. Erection of new detached garage. Change fenestration and remove tile hanging to previous extension and re-render the previous extension.

The application was deferred at Development Management Committee on 19 December 2019 for a site visit. The report of that site visit will follow as a supplementary report.

Case officer: Adam Thomas – ([athomas@aylesburyvaledc.gov.uk](mailto:athomas@aylesburyvaledc.gov.uk))

#### **8. 19/03077/ALB - 21 CHURCHWAY, HADDENHAM (Pages 37 - 42)**

Internal rearrangements and changes to ceiling, windows and doorways. Part demolition of existing single storey rear extension, demolition of existing garage and outbuilding. Removal of lintel, and small wall above over gateway. Part two storey, part single storey rear extension. Erection of new detached garage. Change fenestration and remove tile hanging to previous extension and re-render the previous extension.

Case officer: Adam Thomas – ([athomas@aylesburyvaledc.gov.uk](mailto:athomas@aylesburyvaledc.gov.uk))

#### **9. 19/03535/APP - THE GREEN DRAGON, 8 CHURCHWAY, HADDENHAM (Pages 43 - 82)**

Change of use public house to single residential dwelling.

Case officer: Bibi Motuel ([bmotuel@aylesburyvaledc.gov.uk](mailto:bmotuel@aylesburyvaledc.gov.uk))

#### **10. 19/02912/APP - FOSCOTE HILL FARM, FOSCOTE ROAD, MAIDS MORETON (Pages 83 - 122)**

Relocation of a farm business to include temporary residential accommodation for a period of five years and construction of agricultural buildings

Case officer: Bibi Motuel ([bmotuel@aylesburyvaledc.gov.uk](mailto:bmotuel@aylesburyvaledc.gov.uk))

#### **11. 19/03907/APP - 1 WITTMILLS OAK, BUCKINGHAM (Pages 123 - 130)**

Proposed single storey front extension.

Case officer: Megan Wright – ([mwright@aylesburyvaledc.gov.uk](mailto:mwright@aylesburyvaledc.gov.uk) )

**12. 18/02959/APP - LAND ADJACENT TO TESCO STORES LTD. LONDON ROAD, BUCKINGHAM** (Pages 131 - 160)

Development of a drive-thru restaurant (class A3/A5) with associated car parking and landscaping works. The reconfiguration of part of the wider carpark and the relocation of the click and collect facility.

Case officer: Danika Hird ([dhird@aylesburyvaledc.gov.uk](mailto:dhird@aylesburyvaledc.gov.uk) )

**13. SITE VISIT ARRANGEMENTS**

**14. HUMAN RIGHTS ACT** (Pages 161 - 162)

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## DEVELOPMENT MANAGEMENT COMMITTEE

19 DECEMBER 2019

**PRESENT:** Councillor T Mills (Chairman); Councillors A Bond (Vice-Chairman), J Brandis, M Collins, P Cooper, N Glover, S Morgan, M Rand, Sir Beville Stanier Bt and P Strachan (In place of D Town)

**APOLOGIES:** Councillors R Khan and D Town.

**1. 19/01900/APP - 16A CRAFTON LODGE ROAD, CRAFTON**

RESOLVED –

That the application be **Deferred** for a site visit to take place on 6 January 2020, and to then be brought back to a future meeting of the Committee.

**2. 18/03719/APP - THE GARAGE, THE GREEN, WINGRAVE**

RESOLVED –

That the application be **Approved** as per the Officer's report.

**NOTE:** Councillor Cooper made a representation to Committee in opposition to the application and left the Council Chamber whilst the matter was considered.

**3. 18/02054/ALB - THE GARAGE, THE GREEN, WINGRAVE**

RESOLVED –

That consent be granted as per the Officer's report.

**NOTE:** Councillor Cooper made a representation to Committee in opposition to the application and left the Council Chamber whilst the matter was considered.

**4. 19/01233/APP - LAND REAR/ADJ. TO FAIRHAVEN, MAIN STREET, PADBURY (WITHDRAWN)**

Application number 19/01233/APP was **Withdrawn** from the agenda as Padbury Parish Council had not registered to speak at the meeting.

**5. 18/01385/AOP - LAND AT SCOTTS FARM, SCOTTS FARM CLOSE, MAIDS MORETON**

RESOLVED –

That application number 18/01385/AOP be **Deferred and Delegated** to Officers for approval, subject to the completion of the Section 106 agreement as outlined in the Officer's report.

**6. 19/03076/APP - 21 CHURCHWAY, HADDENHAM**

RESOLVED –

That application number 19/03076/APP be **Deferred** for a site visit to take place on 6 January 2020 and to then be brought back to a future meeting of the Committee.

**NOTE:** Councillor Mrs Brandis declared a non-prejudicial interest. She stated that although she had participated in discussions on the application she had an open mind and was not predisposed.

**7. 19/03077/ALB - 21 CHURCHWAY, HADDENHAM**

RESOLVED –

That application number 19/03077/ALB be deferred for consideration at a future meeting.

**NOTE:** Councillor Mrs Brandis declared a non-prejudicial interest. She stated that although she had participated in discussions on the application she had an open mind and was not predisposed.

**8. SITE VISIT ARRANGEMENTS**

As agreed at the meeting, site visits would be held on 6 January 2020 to:-

- 16A Crafton Lodge Road, Crafton (application number 19/01900/APP)
- 21 Churchway, Haddenham (application number 19/03076/APP)

# Public Document Pack

## DEVELOPMENT MANAGEMENT COMMITTEE

29 NOVEMBER 2019

**PRESENT:** Councillor T Mills (Chairman); Councillors A Bond (Vice-Chairman), M Collins, P Cooper, N Glover, S Morgan, M Rand, Sir Beville Stanier Bt, D Town and P Strachan (in place of J Brandis)

**APOLOGIES:** Councillors J Brandis and R Khan

**1. MINUTES**

RESOLVED –

That the Minutes of the meeting held on 7 November 2019 be approved as a correct record.

**2. 19/02912/APP - FOSCOTE HILL FARM, FOSCOTE ROAD, MAIDS MORETON (WITHDRAWN)**

Application number 19/02912/APP was withdrawn from the agenda and will be brought back to the Committee at a later date.

**3. 19/01147/APP - THE COACH HOUSE, WHARF HOUSE, STRATFORD ROAD, BUCKINGHAM**

RESOLVED –

Approved as per the Officer's report.

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## **Overview Report:**

### *Introduction*

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

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

- 1.1 The starting point for decision making is the development plan, i.e. the adopted Aylesbury Vale District Local Plan (and any 'made' Neighbourhood Plans as applicable). S38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are both important material considerations in planning decisions. Neither change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF.

### The Development Plan

- 1.2 The overall strategy of the Aylesbury Vale District Local Plan (AVDLP) is to seek to concentrate the majority of growth (65% housing and employment) at Aylesbury with the remaining 35% in the rural areas. The latter was to be concentrated at a limited number of settlements. Insofar as this overall strategy is one which is based on the principle of achieving sustainable development, it is considered that this is still in general conformity with the NPPF.
- 1.3 Policies RA13 and RA14 relating to the supply of housing district wide form part of that overall housing strategy, and BU1 in respect of Buckingham, are now out of date, given that these identified housing targets for the plan period up to 2011 and the evidence relating to the districts need has changed significantly since these policies were adopted, and are not consistent with the NPPF policies to significantly boost the supply of housing based on up to date evidence. RA 13 and RA14 sought to take a protective approach to development and can only be given very limited weight when considering proposals within or at the edge of settlements identified in Appendix 4. Development proposals on sites are to be considered in the context of policies within the NPPF which sets out the presumption in favour of sustainable development at paragraph 11. The individual reports will address the position on housing policy as applied to the specific application on a case by case basis.
- 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 were 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. Further to this AVDC has provided the VALP

Inspector with its suggestions for the Modifications to the Plan and he will consider these over the next few weeks. The Inspector set out the timetable for the formal publication of the Modifications and the accompanying consultation. Following further discussions with the Inspector the council has published for consultations the Main Modifications, which have been agreed with the Inspector, on 6 November 2019. The period for making representation runs until 17 December 2019. The adoption of the Vale of Aylesbury Local Plan is planned to be early 2020.

- 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 be given some weight in planning decisions given the stage it is at, and the evidence that sits behind it can be given weight. This will be highlighted in individual reports. 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.

#### Local Supplementary Documents & Guidance

- 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 can be given some weight in planning decisions given the stage it is at, and the evidence that sits behind it can be given weight. 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**

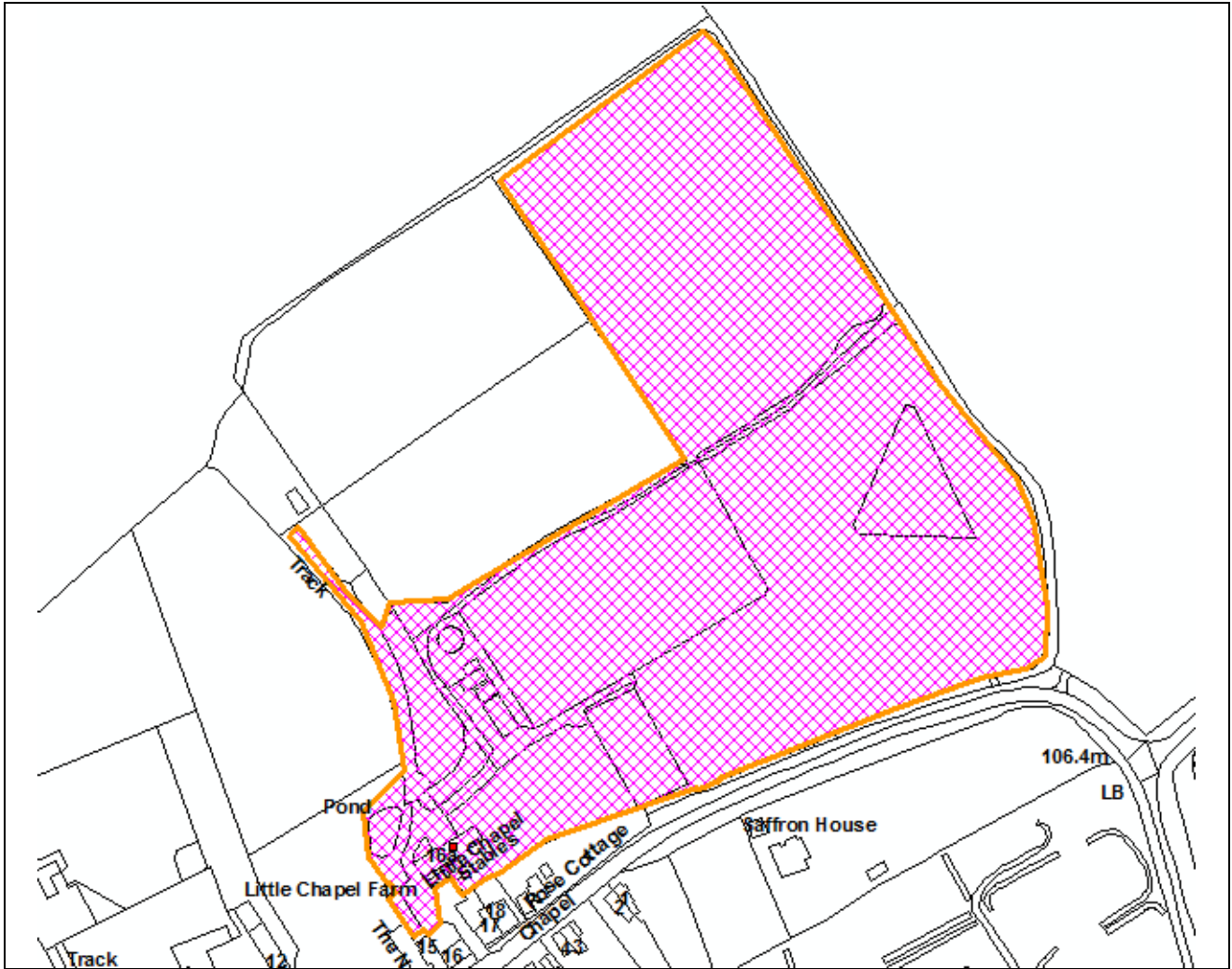
- 1.57 All of these matters, including housing land supply and delivery will need to be taken into account in striking an overall planning balance..

### **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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| REFERENCE NO   | PARISH/WARD  | DATE RECEIVED |
|--|--|---------------|
| 19/01900/APP   | MENTMORE<br>The Local Member(s) for this area is/are: -<br>Councillor P Cooper | 20/05/19      |
| <p>RETENTION OF THE EXISTING BARN (TO INCLUDE ALTERATIONS AND RE-POSITIONING FROM THAT APPROVED UNDER 13/00373/APP) ALONG WITH THE USE OF THE BARN FOR DOG DAY CARE AND ANCILLARY ACCOMMODATION, USE OF PART OF THE DWELLING (LITTLE CHAPEL STABLES) FOR DOG BOARDING AND THE MIXED USE OF LAND FOR AGRICULTURAL, EQUESTRIAN, GRAZING AND THE EXERCISING OF DOGS</p> <p>16A CRAFTON LODGE ROAD,<br/>CRAFTON<br/>LU7 0QL</p> <p>MR &amp; MRS PURNELL</p> <p>STREET ATLAS PAGE NO.89</p> |  |               |

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

- a) Impact on appearance and character of the dwellinghouse, street scene and wider area**
- b) Impact on the setting of the conservation area and listed building**
- c) Impact on residential amenity**
- d) Impact on highways & parking**

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

**CONCLUSION AND RECOMMENDATION**

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

- 1.2 It is considered that the proposal results in economic benefits in association with both the dog boarding and dog day care businesses which weigh in favour of the development. In addition, the existing barn, proposed to be retained as built (rather than in accordance with the previously approved plans) is considered to result in a form of development where any impact in relation to the character and appearance of the site, immediate area and wider countryside are not so significant as to warrant refusal on this basis. The structure and the use of the site (as whole for all elements of the business) are considered to have a neutral impact on the character and setting of Crafton Conservation Area and nearby Scheduled Ancient Monument (to the south of Crafton Lodge Road) and special regard has been had (in line with Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990) in this context.
- 1.3 In addition, the use of the first floor of the retained barn as ancillary bedroom space in association with the residential dwelling of 16A Crafton Lodge Road has been considered, however the barn is separate from the residential curtilage of the main dwelling and whilst the provision of additional accommodation is limited in scale and there may be a reliance on the main dwelling in terms of cooking and other living space, the use is separate from the residence, removed from the residential curtilage of the main dwelling and would therefore not be ancillary in nature. As such, the use of conditions have been included and worded to make clear that residential accommodation is not acceptable.
- 1.4 Concerns relating to noise and highway implications have been considered by the Environmental Health team and Bucks County Council Highways, both of whom have raised no objections to these matters.
- 1.5 Compliance with some of the other objectives of the NPPF have been demonstrated or could be achieved in terms of making effective use of land, trees & hedgerows, biodiversity, contamination, promoting sustainable transport, parking, promoting healthy communities, achieving well-designed places, meeting the challenge of flooding, supporting high quality communication and residential amenity. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm to which weight should be attributed neutrally.
- 1.6 Weighing all the relevant factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the AVDLP and supplementary planning documents and guidance, in applying paragraph 11 of the NPPF, the adverse impacts outlined above, caused by the proposal are considered not to significantly and demonstrably outweigh the benefits of the scheme nor are there clear reasons for refusing the development.
- 1.7 It is therefore recommended that the application be **APPROVED** subject to the following conditions:-
1. The land and building highlighted in blue on the approved block plan (titled SJ462-02), received by the local planning authority on 23<sup>rd</sup> October 2019, shall not be used for any purpose other than for as a dog day care facility between the hours of 0700 am and 1800 pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays.  
Reason: To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury Local Plan) and to comply with the National Planning Policy Framework.
  2. No more than 11 dogs shall be kept at any one time within the land and building highlighted blue on the approved block plan (titled SJ462-02), received by the local planning authority on 23<sup>rd</sup> October 2019.  
Reason: To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury

Local Plan) and to comply with the National Planning Policy Framework.

3. Except for agricultural and equestrian use, the mixed use hereby permitted on the land highlighted in green on the approved block plan (titled SJ462-02), received by the local planning authority on 23<sup>rd</sup> October 2019, shall not be used for the exercise and play of dogs associated with the dog day care use hereby permitted on the land highlighted in blue on the approved block plan except between the hours of 0700 am and 1800 pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays.  
Reason: To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury Local Plan) and to comply with the National Planning Policy Framework.
4. No more than four boarding dogs shall be kept at any time within the dwelling and curtilage of the property known as Little Chapel Stables, highlighted in yellow on the approved block plan (titled SJ462-02), received by the local planning authority on 23<sup>rd</sup> October 2019, and at no time shall be used with a dog day care use.  
Reason: To ensure that inappropriate uses do not take place in this locality to accord with policies GP8 and Policy BE3 of the emerging Vale of Aylesbury Local Plan and GP35 of the Aylesbury Vale District Local Plan and to comply with the National Planning Policy Framework.
5. The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out within three months of the date of the permission of the development hereby permitted and that area shall not thereafter be used for any other purpose.  
Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway in accordance with GP24 of the Aylesbury Vale District Local Plan and to comply with the National Planning Policy Framework.
6. Notwithstanding the submitted details, all areas that remain unshaded on the approved block plan (titled SJ462-02) received by the local planning authority on 23<sup>rd</sup> October 2019, shall remain unaffected by the development hereby permitted, with the existing authorised uses and remain unchanged.  
Reason: To provide clarity regarding the terms of the planning consent.

## **2.0 INTRODUCTION**

- 2.1 As a starting point, the application needs to be determined by committee as the Mentmore Parish Council has raised material planning objections in respect of noise, residential; amenity and the impact on the Conservation Area and confirms that it will speak at the Committee meeting.
- 2.2 Further to the above, the application was first considered at committee, dated 5<sup>th</sup> September 2019, however was subsequently deferred to clarify the extent of what was being sought through the application in order to ensure Councillors, officers and the public were clear and fully appraised of the proposal.
- 2.3 Regarding the concerns raised by the Parish Council, the impact of noise, highways and impact on the character and appearance of heritage assets has been considered by the appropriate consultees, issues have previously been investigated regarding noise, and no objections have been forthcoming. The report below responds to the material considerations as raised by the Parish Council and residents who have concerns regarding the development.

## **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The application relates to 16A Crafton Lodge Road, a detached former stables block that

has been converted into a dwelling, an isolated one and a ½ storey barn building located to the north of this dwelling and the associated land which is given over to grass land for the grazing of horses, sheep and more recently for use as a run for dogs in association with the dog day care business. In addition there is a retained stable building to the east of the barn the subject of this application, however this is unaltered by this proposal and does not form part of the application.

- 3.2 The site is accessed via a shared driveway off the main road and there is a gates access within the shared parking and turning area through a 5 bar gate. There is further parking for the host dwelling to the south of the building and there is a stable to the east with paddock land beyond.
- 3.3 The application site is within an Area of Attractive Landscape and within the Crafton Conservation Area. To the south of the application site and on the other side of Crafton Lodge Road is a Scheduled Ancient Monument.

#### **4.0 PROPOSAL**

The application seeks retrospective consent for four elements:

- retention of the dark stained timber barn building (including alterations to the barn from the approved scheme) with a tiled roof and in the location defined on the site plan and as built,
- the use of the barn building as a dog day care business and ancillary residential accommodation at first floor
- use of the main dwelling and associated curtilage in association with a dog boarding business
- The mixed use of land for agricultural, equestrian, grazing and the exercising of dogs.
- Related to the four elements to be considered, proposals relating to parking and access arrangements accompany the application.

- 4.1 The application was originally brought before the committee on the 5<sup>th</sup> September 2019 but was deferred pending further clarification regarding the extent of the works required to be regularised.
- 4.2 The barn was originally granted permission under planning reference 13/00373/APP with a condition that the building only be used for agricultural purposes. Permission is sought retrospectively for the change of use of the barn to use in connection with a dog day care business that has been in operation since 2016 following the erection of the barn. The day care business is limited in size by the presence of a license for a maximum of 11 dogs.
- 4.3 The barn was built to the width and depth as approved but with a 5.7m ridge height and an eaves height of 2.25m as opposed to the approved 5m ridge height and 2m eaves height. has also been located slightly further to the north than approved to avoid a cess pit
- 4.4 The building has been altered externally comprising the replacement of the timber doors to the south west side with full height timber effect upvc glazed doors, the window in the north west elevation being off set, both windows in flank elevations being upvc framed and the addition of three non conservation rooflights in the north east roof slope.
- 4.5 Permission is also sought for the continued use of the main dwelling and the associated garden in connection with a dog boarding business. The business has operated since 2008 and has a licence to accommodate up to a maximum of 4 dogs. These dogs mix with the applicants own dogs (uncontrolled by the licence). This element of the proposal could be considered under the Certificate of Lawfulness procedure but the applicant was advised by planning enforcement to seek planning permission for all three elements under one application, thereby regularising the use of the site as a whole.

4.6 In addition to the above, an area of land to rear of the property and barn is also used primarily for agricultural and equine grazing purposes (equine being non-commercial in nature), and for the exercising of dogs, associated with the day care business only, during the day (Monday to Friday) so that they do not need to be taken off site. The application also seeks to regularise this within the planning consent.

## 5.0 RELEVANT PLANNING HISTORY

- 82/00916/AV - Establishment of riding school – Approved.
- 89/00812/APP - Demolition of farm buildings erection of one dwelling – Approved.
- 96/02294/APP - Conversion of a stable block to a dwelling - Refused
- 97/00344/APP - Retention of 5 l. p. g. tanks – Refused.
- 97/01171/APP - Agricultural building – Refused.
- 97/01578/APP - Agricultural building – Refused.
- 97/02153/APP - Installation of one LPG underground storage tank – Approved.
- 98/00143/APP - Conversion of stables to dwelling – Refused.
- 98/00858/APP - Conversion of stables to dwelling – Approved.
- 98/02359/APP - Change of use of agricultural building to use as stables (Little Crafton Farm) – Approved.
- 13/00373/APP - Erection of agricultural storage building with associated hardstanding – Approved.
- 15/04110/APP - Erection of replacement porch to rear – Approved.
- 02/02521/APP - Erection of greenhouse – Approved.
- 19/01769/APP - New vehicular access road - Pending

## 6.0 PARISH/TOWN COUNCIL COMMENTS

At a meeting of the Parish Council on 19<sup>th</sup> June 2019 it was resolved to OBJECT to the application on the following grounds.

Noise and Residential Amenity: The location is close to residential dwellings, within the Crafton Conservation area and the noise and disturbance this business causes is unwarranted. This is represented by the objections filed by parishioners. At the very least an adequate cordon sanitaire of 75 metres should be conditioned to protect residents.

Traffic; This business brings extra traffic along a single track road which is unsuitable given its location inside the Crafton conservation area, again this has been covered extensively in parishioners objections.

The title of the application is misleading as the retention of a barn is in fact the retention of a barn converted without permission to a dwelling. We wonder why this isn't two separate applications, one for the conversion of the barn to a dwelling and the other for the dog boarding business. We are confident that should this application be made conventionally, as two separate planning issues and not as a retrospective application, it would be refused.

We now see it is clearly used as a dwelling. We are also concerned that in connection with 19/01769/APP this is an attempt to split this property into separate dwellings. This and its potential use as a dwelling should be controlled by condition.

Should the officer be minded to approve this application we request to speak at committee.

## 7.0 CONSULTATION RESPONSES



- 7.1 Rights of Way Officer – Notes that a public footpath runs to the west of the application site and has concerns regarding the parking arrangements that could potentially obstruct the footpath. A parking plan has been provided and, in conjunction with the Highway Officer, it is recommended that a condition be included that the parking spaces be laid out and permanently maintained.
- 7.2 Highways – Following receipt of a traffic survey, noted that although the highway network approaching the site is narrow and would not accommodate simultaneous two way vehicle flow, given the lightly trafficked nature of the road, it is not thought that a refusal on highway grounds would be sustainable.
- 7.3 Heritage – No concerns over the new position or increased height of the barn and the change of use is outside the normal heritage remit. However, concerns have been raised that the UPVC windows and non conservation rooflights are not considered sensitive to the character of the Conservation Area.
- 7.4 Economic Development – Welcomes the application to continue the use of the building as dog boarding and day care stating that the application agrees with AVDLP 2004, policy RA11 with the reuse of a permanent structure for non residential purposes. It also is supported by NPPF paragraph 83 for the sustainable growth for all types of business in rural areas but would like more information on the number of staff.
- 7.5 Archaeology – The nature of the works are unlikely to significantly harm the archaeological significance of the nearby Schedule Ancient Monument. No objection.
- 7.6 Environmental Health – Given the separation between the unit and the nearest residential properties, no objection.
- 7.7 Buckingham & River Ouzel Drainage Board – The site is outside the boards district and therefore no comment.

## **8.0 REPRESENTATIONS**

- 8.1 Seven letters of objection have been received from the occupiers of dwellings within the hamlet who oppose the application on the grounds of:
- Noise of barking dogs while being dropped off and pick up would impact on the neighbours
  - Extra vehicular movements, especially at peak time, would cause a hazard to other road users
  - Use of the site and barn for dog care purposed is inappropriate within the Conservation Area and adjacent to the Scheduled Ancient Monument
  - Close proximity of the use in relation to the neighbouring dwelling inappropriate resulting in a noise nuisance. Has rooms close to where dogs can roam freely
  - Inappropriate for a business to operate within such a small rural hamlet and would set a precedent.
  - The alteration to the barn could lead to the change of use to a residential unit
  - The wooden fence screening from the public footpath unsuitable and unacceptable in this location
- 8.2 The occupier of Rose Cottage have advised that they share a rear boundary with the application site and that dogs roam freely on open land adjacent to the boundary which is only 5m away from the rear elevation of Rose Cottage. However, the plans provided show although there is a large area of land belonging to the applicant adjoining the rear garden of Rose Cottage, this land is use for the residential dog care business and not associated with the dog day care business.

- 8.3 In response to the letters of objection, the applicants agents submitted an additional letter, responding to a number of points raised by objectors, however a further letter from a neighbour highlighted concern that the letter did not provide further clarity.

## 9.0 EVALUATION

### **Impact on appearance and character of the dwellinghouse, street scene and wider area**

- 9.1 Policy GP35 of AVDLP requires that new development should respect and complement the physical characteristics of the site and surroundings, existing development in the locality and the natural and historic features of the site. Advice contained within the NPPF seeks to support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing building and well-designed new buildings and to promote the development and diversification of agricultural and other land-based rural businesses.

### The retention of the existing barn (as built) and use of the ground floor as a dog day care facility and first floor for ancillary staff break out area and for residential purposes.

- 9.2 The barn building has been constructed to the west of an existing stable building to a taller size than that approved so as to incorporate a first floor and rooflights in the north east facing roofslope. There are no views of this elevation of the building due to a line of mature trees between the building and a stable block.
- 9.3 The barn that is subject to retrospective planning application is set away to the west of the public footpath. The boundary between the barn and the footpath is defined by a 2m high close boarded fence.
- 9.4 The materials used in the construction of the barn comprise dark stained timber weatherboarding to the elevations set under a clay tiled pitched roof and facing towards the public footpath there are double opening upvc timber effect doors with a small window in the north west side elevations. There is a small window and door in the south east side elevation and one small window in the north west side elevation, both of which are permitted and which do not appear overly prominent in the context of the application site.
- 9.5 Policy RA8 of the AVDLP relates to proposals within an Area of Attractive Landscape and advises that development that adversely affects the character of the area will not be permitted unless appropriate mitigation measures can be secured and the Council will impose conditions or seek planning obligations to ensure the mitigation of any harm caused to the landscape interest.
- 9.6 Whilst the proposed building was not constructed in accordance with the approved details (13/00373/APP) and alterations to fenestration have taken place including the introduction of roof lights windows, it is considered that the building has been constructed from appropriate materials for the rural area and does not appear visually intrusive within the AAL, therefore the revised building is considered acceptable and accords with policy GP35 and RA8 of the AVDLP. In addition, in visual terms, the use of the structure does not result in any discernible harm in the context of these policies and harm to the character and appearance of the area. Officers consider that had the building as designed and in its present location been proposed, officers would have recommended approval for the structure.
- 9.7 Following the previous site visit, officers visited the barn and assessed the internal layout. Downstairs is laid out for dog boarding/day care – with 4 individual pens for dogs. Upstairs however is a small respite area for a worker, a bathroom as well as a bed.

- 9.8 The Design and Access Statement supplied with the application clearly sets out that the upstairs use of the Barn is to be used as 'residential ancillary'. Further clarification has been sought from the applicant as to what this actually means. Officers have been advised that the first floor is used on occasion by one of the applicants children or a guest visiting the main dwelling given the limited space in the main household.
- 9.9 Officer's are of the view that the appearance of the building and its use, as well as the immediate secure curtilage' area, do not lead to adverse impacts on the character and appearance of the main dwelling, the street scene or wider area, with limited views from public vantage points. Although visible from the adjacent public footpath, the building does not appear out of character with the location. Overall the building as built does not lead to any detrimental harm to the character of the area. In this instance, whilst the application seeks to regularise the use of the first floor as ancillary residential accommodation, and the applicant stating that it provides much needed accommodation ancillary to the dwelling, in this instance this element of the development cannot be supported. The barn is separate from the residential curtilage of the dwelling, and whilst it appears there would be some reliance on the main dwelling in terms of there being no cooking or living space beyond the bedroom, the barn itself is separated from the main dwelling's residential curtilage and therefore cannot be considered ancillary on this basis. Conditions limiting its use as ancillary accommodation during the operation hours of the business for members of staff would be appropriate, and that the rest of the building and garden area are to be used in association with the day care dog business would ensure that this is the case.
- 9.10 Further to this, the proposed downstairs layout and the upstairs area which provides respite for workers during the day is considered appropriate. The use as proposed, and what is to be assessed as part of this application, is considered acceptable, however to ensure that the terms of the consent are clear a condition is proposed that limits the use of the dog day care business to the opening hours of the day care use i.e. between the hours of 0700am to 1800hours Monday to Friday and at no time at weekends. In addition, the condition ensuring that the upstairs can be used as ancillary accommodation to the day dog boarding business between the hours of 0700 hours and 1800 hours Monday to Friday.

Mixed use of the main dwelling for dog boarding purposes

- 9.11 In addition to the retention of the barn and its use as a dog day care centre, the application also seeks to regularise the existing dog boarding business on the site. Within the main dwelling, the space is shared as residential and for the boarding of up to four dogs. The maximum number of dogs associated with boarding is restricted by a dog boarding licence for up to four dogs. The boarding arrangements mean the dogs are within the home with the internal layout being open plan with no separation between private and boarding space and therefore the two elements, residential and boarding are intrinsically linked, which is as per the dog boarding licence.
- 9.12 In running the business in this way, which is separate from the day care of the dogs (although the applicant acknowledges that on occasion a dog that boards may also be a dog within the day care building), the boarding dogs essentially form part of the domestic household during the evenings and at weekends. As such, it is expected that the use of the residential garden for the exercise of the boarding dogs would take place in this area, this however would be largely limited to evenings and weekends given that the other facility would allow for the day care needs of these dogs.
- 9.13 The scale of the boarding element is limited by the terms of the license to a maximum of four dogs, this appears to reflect the limited size of the dwelling and garden area when considering the overall scale of the site and what space would be appropriate for the boarding of dogs. It is considered the use is no more harmful than the use of the area for

purely residential purposes and the number of dogs who use this area is strictly limited. This is no more harmful than if the applicant had 6 dogs of their own (instead of 2 + 4 boarders). As such, in terms of impact on character and appearance, there are no negative impacts as a result of this development that would be of a level that would warrant refusal.

Outdoor area (run) associated with the dog day care business and equestrian and grazing of sheep etc.

- 9.14 Clarification has been sought as to use of the retained stable (outside the application proposal) and equestrian/dog run and grazing area to the east of the barn, identified green on the block plan. The applicant has informed officers that twice a day the dogs will be let in to the paddock to have a run, exercise and play. This negates the need to take the dogs off site. In addition, it was clarified that the keeping of horses and occasional sheep on the site is purely for private use only and not for any commercial or other activity. Sheep grazing takes place as a form of land management whilst the horses move from field to field as required.
- 9.15 It is considered that these uses are entirely appropriate for the location and lead to no adverse impacts on the landscape, street scene or general appearance of the countryside. Notwithstanding this, it would be appropriate to include a condition outlining the acceptable terms of the consent, this being that the area defined on the approved plan can only be used ancillary to the dog day care between the hours of 0700 and 1800 Monday to Friday, and at no other time, and for the keeping of horses and/or livestock ancillary to use of the main dwelling at any time and never for commercial purposes.

**Impact on the setting of the conservation area and other heritage assets**

- 9.16 Policy GP53 of the AVDLP seeks to ensure that development proposals respect the character and appearance of the Conservation Area and Section 16 of the NPPF relates to conserving and enhancing the historic environment.
- 9.17 The building is a relatively modest size, being only slightly taller than the approved scheme, that is located on part of a small paddock alongside a stable building and is shielded all round by fencing and existing vegetation affording no view of the building from the wider area. Whilst the proposed building was not constructed in accordance with the approved details (13/00373/APP) and alterations to fenestration have taken place, it is considered that the building has been constructed from appropriate materials for the rural area and does not appear visually intrusive within the AAL, therefore the revised building is considered acceptable and accords with policy GP35 and RA8 of the AVDLP. In addition, in visual terms, the use of the structure does not result in any discernible harm in the context of these policies and harm to the character and appearance of the area.
- 9.18 With regard to the fenestration, when permission was granted for the erection of the barn, condition 2 stated that the materials used in the development shall be used as indicated on the form and therefore should be timber. However, the condition did not stipulate that the windows and doors should not be replaced and therefore as the original building was built with timber doors to the front, the replacement of these doors with UPVC glazing could be considered permitted development. It is also noted that the applicant has rehung the original timber doors and these doors can be closed over the new glazing reducing the impact on the conservation area.
- 9.19 Similarly, UPVC rather than timber windows have been added to the end elevations and the position of the window to the north west facing side has been set off centre and does not therefore correspond to the original permission as granted in terms of materiality or position. There are no heritage concerns over the new position of the window and as the

two windows are relatively small, although timber windows would be preferable, a reason for refusal on these grounds could not be sustained.

- 9.20 With regard to the rooflights, although these are not considered characteristic of barn style buildings and do not comply with the current guidance for agricultural buildings, given the minimal visibility in the surrounding area, they are not considered to have a negative impact.
- 9.21 Regarding the other areas within the site, the use of the dog boarding within the house for up to 4 dogs (not including the owners own dogs) and use of the garden in association with this, has no negative impact on the character and appearance of the site as it remains residential in appearance. The use of the area marked green on the approved plan for non commercial grazing of animals and the keeping of horses has no negative impact on the character and appearance of the countryside but is instead considered appropriate for its location. In addition, the limited use of this area as a dog exercise area does not detract from the setting of the area and as such is considered acceptable.
- 9.22 Concern has also been raised that the use of the land for the dog day care business would be negatively impact upon the nearby Scheduled Ancient Monument. The SAM relates to an area of land that relates to a deserted medieval village on the southern side of Crafton Lodge Road. It is considered that the development the subject of this application would not have a detrimental impact on the character or setting of the SAM given that there is no direct relationship, or inter-visibility between the development and the SAM. In addition the nearest Listed Building is Crafton Farmhouse which is some 85m from the barn with intervening buildings, boundary treatments and development between the barn and the heritage asset. It is not considered that the proposed development, either the use or built form would have a negative impact on the character, appearance or setting of any heritage asset.
- 9.23 The building as built is considered appropriate for its setting and has a minimal impact on the character and appearance of the surrounding area and countryside with no adverse impact upon the Crafton Conservation Area and does not appear out of keeping with the rural area.
- 9.24 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 Scheduled Ancient Monument and that the setting of any 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.

#### **Impact on residential amenity**

- 9.25 Policy GP8 of the AVDLP seeks to preserve the residential amenities of neighbouring properties by protecting their character of outlook, access to natural light and privacy and GP95 seeks to protect the amenities of existing occupiers from the adverse affects of existing uses.
- 9.26 The barn is sited within a small paddock area to the north of the existing development that fronts Crafton Lodge Road and there is a separation of approximately 30m between the barn and Little Chapel Stables which is within the applicant ownership and it is approximately 70m from the nearest neighbouring properties which comprise No's 15 and 17 Crafton Lodge Road which front the highway and are either side of the access.

- 9.27 Given the substantial separation between the business and with no views of the building from these dwellings, it is not considered that the extra height of the building or the use would give rise to a loss of amenity to the neighbouring dwelling complying with GP8 of the AVDLP.
- 9.28 With regard to the new use of the building, although the neighbours have highlighted the noise nuisance, information has been provided to state that the dogs would not be left unsupervised therefore reducing the likelihood of barking and the dog day care business would be on the parcel of land separated from the neighbouring dwelling and although it is accepted that barking will be heard, it is not considered that it would be at an unacceptable level therefore in compliance with GP95 of AVDLP.
- 9.29 Indeed, as referenced in the EH Officers consultation response, issues relating to noise levels have previously been investigated following a complaint. These noise levels were reduced to a level that was acceptable. Following these investigations, no further complaints have been logged since. The EH Officer went on to conclude that *given the separation distance between the unit and neighbouring residential dwellings and the lack of any recent complaints environmental health has no objection to this application.*
- 9.29 The dogs are exercised in a paddock area beyond the stable building to the north east of the barn but not let out before 9am. Dogs being exercised are supervised at all time by two members of staff.
- 9.30 The dogs that board are kept in the applicants home and are also supervised at all times. These dogs are restricted to a small enclosed area, defined yellow on the block plan, around the main dwelling and not the paddocked area. The small area is enclosed by picket fencing to prevent the dogs running along the boundary with 17 & 18 Crafton Lodge Road and Rose Cottage.

#### **Impact on highways & parking**

- 9.31 GP24 of AVDLP seeks that new development is required to provide vehicular parking in accordance with the SPG on Parking Guidelines.
- 9.32 The property is served by an access off Crafton Lodge Road which is an unclassified road subject to a 30mph limit. A Vehicle Movement Survey has been submitted with the application showing a typical daily timeline as follows:
- 4 day care dogs arriving between 7am and 9am being dropped off by their owners who have sent a text message beforehand to be met by staff on arrival
  - One vehicle belonging to the business leaving at 7.15am to collect day care dogs
  - One vehicle belonging to the business leaving at 7.30am to collect day care dogs
  - Collection one vehicle arrives back at 8.20am
  - Collection two vehicle arrives back at 9.45am.
  - The majority of the day care dogs loaded into the two vehicles for delivery back to their owners between 3.30pm and 4pm
  - The remaining 4 dogs in day care collected by their owners between 4pm and 6.30pm

The Highway Officer has commented that although the access approaching the site is narrow, the limited vehicle movements associated with the current business use does not generate excessive traffic use and therefore has no objection.

- 9.33 The site is accessed through a shared courtyard with parking for three cars within the courtyard and a further three cars can be parking to the front of Little Chapel Stables. Given the amount of visitors expected, the parking is considered adequate and visits would be by appointment and therefore can be staggered to lessen the impact

- 9.34 In addition to the above, given that boarding dogs attract less vehicle movements (due to there being a total of 4 dogs associated with this element of the business as well as being in care for a longer period of time), the vehicle movements in association with this element are not considered to be of a level or frequency to warrant any concern.
- 9.35 The Rights of Way Officer has concerns that parking may occur to the front of the public footpath but following the receipt of a revised parking plan, has no objections subject to the condition suggested by the highway officer.
- 9.36 Having regard for the above, it is considered that the development would accord with Policy GP24 of the AVDLP, the Council's SPG on Parking Guidelines and the NPPF.

**Other matters**

- 9.37 The Parish Council have concerns that it is intended to convert the building into a separate unit of accommodation. The applicants set out within the submitted details that the first floor has been used as an additional bedroom ancillary to the main dwelling. It is accepted that the use of the barn as an independent dwelling household would constitute inappropriate development, however this is not what is proposed as part of the application. The use of the first floor for overnight accommodation has been considered in the context of it being ancillary to the main dwelling, however it is concluded the barn is not within the residential curtilage of the dwelling, is physically separated from the dwelling and therefore cannot be considered as ancillary accommodation on this basis.. However, for the avoidance of doubt, a condition is considered appropriate limiting the first floor of the unit for ancillary break out space for use in connection with the dog day care business during opening hours only addresses this concern
- 9.38 Further to the above, concern has been raised regarding events that take place on the land, potentially by the Pony or Kennel Club. The existing equestrian use remains unchanged as a result of this proposal and it would be inappropriate to put additional restrictions on the site on a use that is already lawful and not altered by this permission (other than the introduction of the mixed use as outlined within the report and the recommended conditions). The applicant has confirmed that no events are carried out on the site and in any case, this does not form part of the application.
- 9.39 Similarly, clarity had been sought regarding whether horse liveries are provided or if the horses are for private use only. Again, the applicant has confirmed that the only horses kept on site are those belonging to the applicant and that no livery is provided; the application does not relate to any commercial equine business.

Case officer: Janet Mullen ([jmullen@aylesburyvaldc.gov.uk](mailto:jmullen@aylesburyvaldc.gov.uk) )

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## CORRIGENDUM

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**Reference Number:** 19/01900/APP

**Address:**

**Proposal:** Retention of the existing barn (to include alterations and re-positioning from that approved under 13/00373/APP) along with the use of the barn for dog day care and ancillary accommodation, use of part of the dwelling (Little Chapel Stables) for dog boarding and the mixed use of land for agricultural, equestrian, grazing and the exercising of dogs.

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16A Crafton Lodge Road  
Crafton  
Buckinghamshire

Members attention is drawn to the updated conditions 1, 2, 3 and 4 and the introduction of 2 informatives. Conditions 1 and 3 have been updated in relation to the hours of operation, i.e. 1830pm rather than 1800pm. It is considered that this additional half an hour, to reflect what was stated in the supporting statement provided by the applicant dated 29<sup>th</sup> September 2019, would not have an adverse impact on the private residential amenity of the nearest neighbouring dwellings.

In addition, conditions 2 and 4 have been updated to reflect the dog boarding and day care numbers granted by the license. The confusion of numbers was as a result of what officer's observed regarding dog numbers at their most recent site visit rather than what has been stipulated as acceptable in line with the license.

Condition 2 proposes 1 additional day care dog, bringing the number of dogs in association with that aspect of the business to 12. Whilst condition 4 raises the number of dogs from four to 11, however, this total number includes the license holders own dogs in addition to the boarding dogs. This is clarified in the first informative included below.

Any reference to the hours of operation and number of dogs within the report should relate to the numbers outlined within this corrigendum. Whilst the report assessed the numbers as set out within the document, it is considered that a single additional dog within the blue area and green area in association with the dog day care would not materially impact upon the acceptability of this aspect of the proposal. In addition, regarding the dog boarding numbers, whilst this may be an increase over that highlighted in the report, fundamentally the numbers haven't changed from what is actually taking place on site and no noise complaints have taken place since 2016 and this complaint appeared to have related to the dog day care use rather than the boarding and no further action was required. Regardless, management procedures were put in place and no noise nuisance has been reported since. Should this change, this would be investigated under 'Statutory Nuisance' covered by the Environmental Protection Act 1990.

The second informative has been included to make the applicant aware that any breach in the conditions imposed would result in investigation and where necessary the appropriate enforcement action will be taken.

1. The land and building highlighted in blue on the approved block plan (titled SJ462-02), received by the local planning authority on 23rd October 2019, shall not be used for any purpose other than for as a dog day care facility between the hours of 0700 am and 1830 pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays.  
Reason: To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury Local Plan) and to comply with the National Planning Policy Framework.
2. No more than 12 dogs shall be kept at any one time within the land and building highlighted blue on the approved block plan (titled SJ462-02), received by the local planning authority on 23rd October 2019.  
Reason: To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury Local Plan) and to comply with the National Planning Policy Framework.
3. Except for agricultural and equestrian use, the mixed use hereby permitted on the land highlighted in green on the approved block plan (titled SJ462-02), received by the local planning authority on 23rd October 2019, shall not be used for the exercise and play of dogs associated with the dog day care use hereby permitted on the land highlighted in blue on the approved block plan except between the hours of 0700 am and 1830 pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays.  
Reason: To safeguard the private residential amenity of neighbouring residents (GP8 of the Aylesbury Vale District Local Plan and Policy BE3 of the emerging Vale of Aylesbury Local Plan) and to comply with the National Planning Policy Framework.
4. No more than 11 boarding dogs of the shall be kept at any time within the dwelling and curtilage of the property known as Little Chapel Stables, highlighted in yellow on the approved block plan (titled SJ462-02), received by the local planning authority on 23rd October 2019, and at no time shall be used with a dog day care use.  
Reason: To ensure that inappropriate uses do not take place in this locality to accord with policies GP8 and Policy BE3 of the emerging Vale of Aylesbury Local Plan and GP35 of the Aylesbury Vale District Local Plan and to comply with the National Planning Policy Framework.

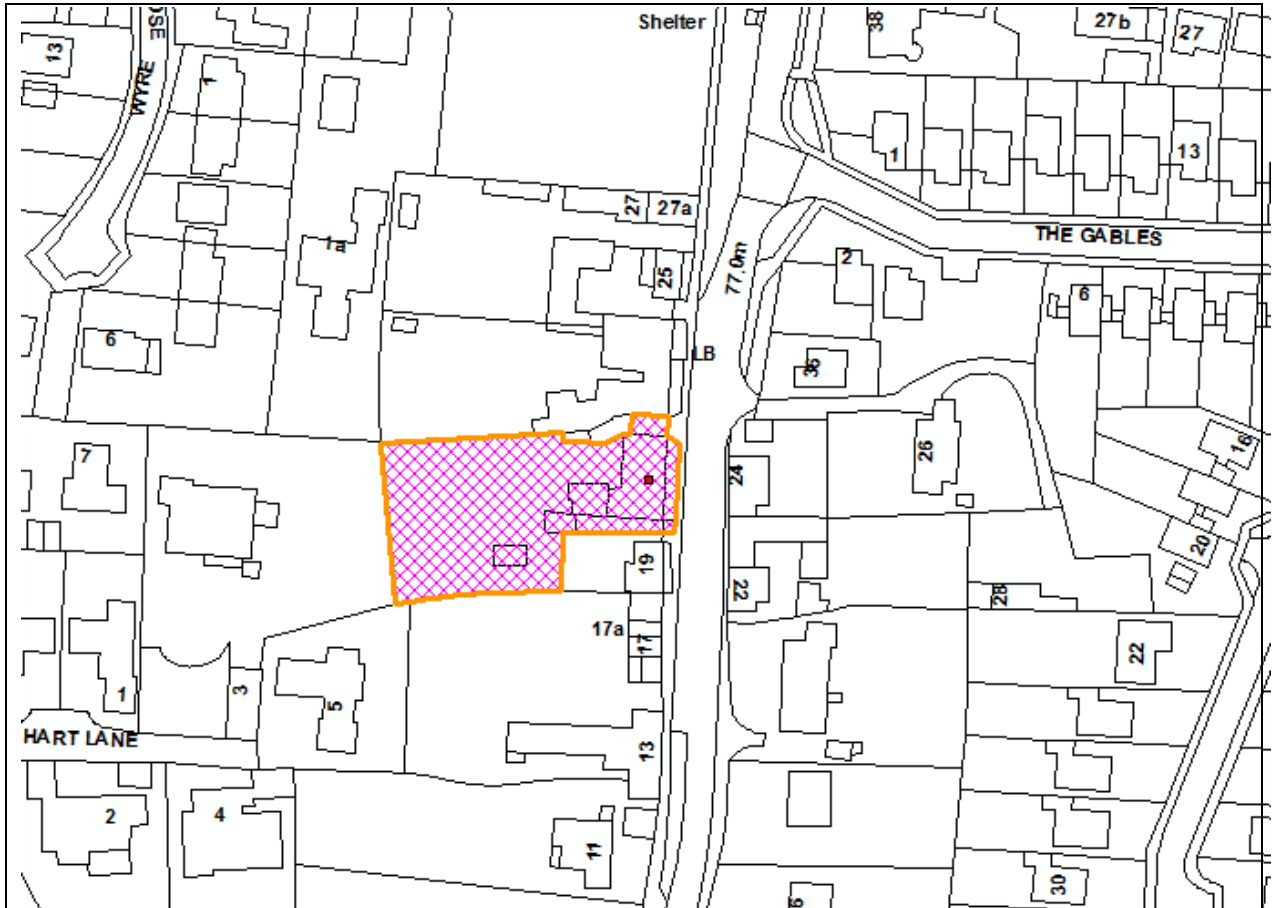
## **Informatives**

1. In relation to condition 4 and the maximum number of boarding dogs to be kept at the property is limited to a total number of 11 dogs, this includes those owned by the license holder as stipulated within the license granted under the Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018.

2. The applicant is reminded that should strict adherence to the conditions, imposed above, not take place the Council would investigate any breach of these conditions and take the appropriate action as deemed necessary as a result of these investigations.

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19/03077/ALB



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| REFERENCE NO  | PARISH/WARD   | DATE RECEIVED |
|---|---|---------------|
| 19/03077/ALB  | HADDENHAM<br>The Local Member(s) for this area is/are: -                      | 20/08/19      |
| INTERNAL REARRANGEMENTS AND CHANGES TO CEILING, WINDOWS, WALLS AND DOORWAYS. PART DEMOLITION OF EXISTING SINGLE STOREY REAR EXTENSION, DEMOLITION OF EXISTING GARAGE AND OUTBUILDING. REMOVAL OF LINTEL, AND SMALL WALL ABOVE OVER GATEWAY. PART TWO STOREY PART SINGLE STOREY REAR EXTENSION. ERECTION OF NEW DETACHED GARAGE. CHANGE FENESTRATION AND REMOVE TILE HANGING TO PREVIOUS EXTENSION AND RE-RENDER THE PREVIOUS EXTENSION. | Councillor David Lyons<br>Councillor Brian Foster<br>Councillor Mrs J Brandis |               |
| 21 CHURCHWAY<br>HP17 8AB<br>MRS LUCY DOWSON   |   |               |
| STREET ATLAS PAGE NO. 127   |   |               |

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

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

The recommendation is that consent be **GRANTED**

### CONCLUSION

It is considered that the extensions and the internal and external changes would not cause harm to the heritage asset or to its significance and therefore the works accord with the guidance contained within the NPPF and section 66 of the Act. The consent should be granted subject to the following conditions: -

The application should be approved subject the following conditions:

1. STC6 – Standard time condition
2. US07 – Materials as shown on form

3. LC22 – Fenestration details
4. No work permitted by this consent shall commence until details of the new doors and rooflights to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved details.
5. During the works of the fireplace removal in the sitting room hereby approved, a detailed recording of what is found must be carried out by an archaeological / building recording consultant or organisation approved by the Local Planning Authority. It shall be maintained throughout the works and submitted on completion of the works to the 'Historic Environment Record' and the Local Planning Authority notified.
6. No work permitted by this consent shall commence until details of any new flue and/or vents to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved details. Please also see note no's 5 and 6.
7. No work permitted by this consent shall commence until details of how the flat roof extension will be attached to existing building have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved details. Please also see note no's 5 and 6.

**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. 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. 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. 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. 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. 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.
7. 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.

## **2.0 INTRODUCTION**

- 2.1 The application needs to be determined by committee as the parish council has raised material planning objections to the application on the following grounds:
- 2.2 The combined 20th century and proposed extensions are disproportionately larger than the original 19th century building resulting in harm to the listed building with various gables, ridges, pitches and roof styles discordant and unsympathetic and not subservient to the old building.
- 2.3 The Council considers that the rear extensions follows the existing L-shaped pattern of development and is considered appropriate in relation to the listed building, with the main element extending from the rear of the modern side extension the ridge height stepping down resulting in the extension appearing suitably subservient. The contemporary flat roof glazed extension would extend from the rear of the original building, which would be a light weight structure and allow views through to the original building, as seen in other examples of modern extensions to listed buildings.

## **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The site is located on Churchway in Haddenham village. It is semi-detached Grade II Listed Building, the original building constructed in early 19<sup>th</sup> century. It is of a stone construction with a slate roof. There are later more modern additions to the southern side and rear of the dwelling and a lintel beam and tile coping above the access at the south of the site.
- 3.2 House. Early c19. Coursed rubblestone with dressed stone jambs lintels and quoins. Slate roof. 3 bays with 4th over carriageway at right. 2 storeys. 5 panel central door with diamond ornament on horizontal panel in centre and 3 pane fanlight. Recessed barred sashes 4 panes to outer bays 3 above door. At right first floor oriel window installed in 1879 over carriageway which has board doors. Flanking stacks to main 3 bays. Cast-iron spear standards to wrought iron railings and gate on brick dwarf wall in front of house.

## **4.0 PROPOSAL**

- 4.1 The proposal involves removal of the lintel and small wall over the south-side access and changes to the fenestration including replacing the windows on the rear elevation. There would also be a new roof light on the front section of the side extension and the removal of the tile hanging to the previous extension and re-rendering of it. Part demolition of the existing single storey rear extension, demolition of existing garage and outbuilding. Part two storey part single storey rear extension and the erection of new detached garage.
- 4.2 Internal rearrangements are also proposed including a new ensuite, new entrance into the side extension, removal of a 1950's fireplace and secondary glazing, as well as various changes to the ceiling, walls and doorways.

## **5.0 RELEVANT PLANNING HISTORY**

- 5.1 None

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

- 6.1 The Parish Council OPPOSES this application for the following material reasons: The combined 20th century and proposed extensions are disproportionately larger than the original 19th century building resulting in harm to the listed building with various



gables, ridges, pitches and roof styles discordant and unsympathetic and not subservient to the old building.

- 6.2 Following amendments to the scheme the parish council submitted the following revised comments:

The Parish Council is pleased to note that the balcony has been removed on the amended plans but maintains its previous objections to other aspects of the application. If the application goes to committee the Parish Council would like to send a representative.

## **7.0 CONSULTATION RESPONSES**

- 7.1 Heritage Officer – The proposals would preserve the architectural and historic interest of the listed building and therefore complies with sections 16 of the Act causing no harm to the significance of the heritage asset therefore the application should be approved.

## **8.0 REPRESENTATIONS**

- 8.1 Councillor Judy Brandis objected on the following material grounds: The massing is complex and may compromise the original C19 small cottage.
- 8.2 A further 5 representations have been received from 3 individuals objecting on the following material grounds:
- Harm to the listed buildings through an out of character, complexed, oversized and incongruous additions in comparison to the original dwelling.
  - Inappropriate materials used

## **9.0 EVALUATION**

### **9.1 Impact on the special architectural and historic interest of the listed building**

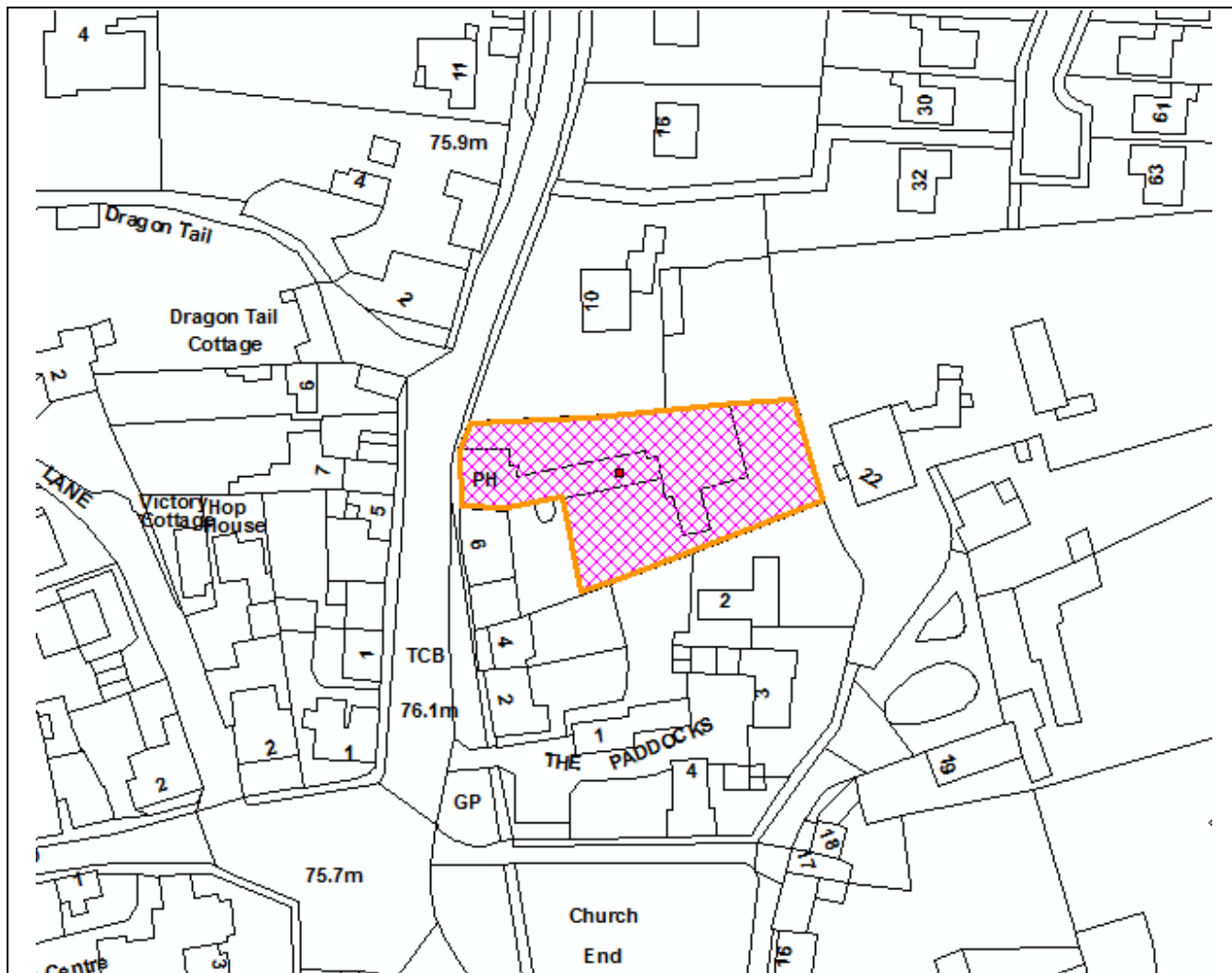
- 9.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving the Listed Building, its setting, and any features of special architectural or historic interest which it possesses. The policies of the AVDLP relating to listed buildings are not 'saved'. Policy BE1 of VALP (moderate weight) states that development proposals should conserve heritage assets in a manner appropriate to their significance.
- 9.3 The external changes to fenestration of the original dwelling, including window replacements and new openings are considered appropriate and would not harm the listed building. The changes to the existing modern side and rear extension are considered to improve its appearance and be more in keeping. The rear extensions follow the existing L-shaped pattern of development and are considered appropriate in relation to the listed building, with the main element extending from the rear of the modern side extension. The contemporary flat roof glazed extension would extend from the rear of the original building, which would be a light weight structure and allow views through to the original building, as seen in other examples of modern extensions to listed buildings. The roof light located on the front of the existing side extension would be obscured from the streetscene by the raised parapet at the front of the building and is considered to be an acceptable addition in this instance. Acceptable materials would be used and the proposal is supported by the Heritage Officer.

- 9.4 In regards to the internal changes, most of the changes would occur in the modern side extension and therefore not impact the original historic fabric. The scheme reverts many of the rooms back to the original layout which is welcomed including the new ensuite which makes use of an original door in the historic core of the building. A new access will be created by lowering the cill of an existing side window of the historic core building. Whilst this will result in the loss of some historic fabric, this harm is outweighed by resulting in the more simple historic layout of the building being reinstated (bedroom 3 and opening of the landing area) whilst also providing a more usable layout in the side extension, therefore the proposal is acceptable. In regards to the ceiling beam in the sitting room the opening works are considered to have taken place in C20th and so this is likely to be steel work, investigation is considered appropriate and should it be a historic timber beam its exposure is likely to be acceptable. The removal of the 1950's fireplace is considered acceptable, however recording of the original fireplace behind is considered necessary. The proposal includes the installation of secondary glazing to the windows within the front elevation of the listed building. Details submitted with the application confirm the frames, transoms and mullion details of the secondary glazing units will match up with the existing windows and therefore this element is considered acceptable.
- 9.5 Special regard has been given to the statutory test of preserving the listed building under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, which is accepted is a higher duty. It has been concluded that the listed building would be preserved, and so the proposal accords with section 66 of the Act. In addition, no harm would be caused to the significance of the heritage asset, in NPPF terms, and as such the proposal accords with guidance contained within the NPPF.

Case Officer: Mr Adam Thomas

([athomas@aylesburyvaledc.gov.uk](mailto:athomas@aylesburyvaledc.gov.uk))

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| 19/03535/APP |  |
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| REFERENCE NO   | PARISH/WARD   | DATE RECEIVED |
|--|---|---------------|
| 19/03535/APP   | HADDENHAM<br>CA/LB  | 01/10/19      |
| CHANGE OF USE PUBLIC<br>HOUSE TO SINGLE<br>RESIDENTIAL DWELLING.<br>THE GREEN DRAGON8<br>CHURCHWAY<br>HP17 8AA | The Local Member(s) for this<br>area is/are: -<br><br>Councillor David Lyons<br><br>Councillor Brian Foster<br><br>Councillor Mrs J Brandis |               |
| MR JAMES COLLINS   |   |               |
| STREET ATLAS PAGE NO. 126  |   |               |

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

- a) **The planning policy position and the approach to be taken in the determination of the application.**
- b) **Whether, having regard to national and local policies, the proposed change of use from a public house (Class C4) to a dwellinghouse (Class C3) would be acceptable on the basis of whether the continued use of the premises as a public house is viable.**
- c) **Whether the proposal would constitute a sustainable form of development.**
  - **Delivering a sufficient supply of homes**
  - **Building a strong, competitive economy**
  - **Promoting healthy and safe communities**
  - **Promoting sustainable transport**
  - **Supporting high quality communications**
  - **Making effective use of land**
  - **Achieving well-designed places**
  - **Meeting the challenge of climate change and flooding**
  - **Conserving and enhancing the natural environment**
  - **Conserving and enhancing the historic environment**

**d) Impact on residential amenities.**

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

## CONCLUSION AND RECOMMENDATION

- 1.1 The application has been evaluated against the extant Development Plan and guidance set out in the NPPF (2019) and the report has assessed the application in the light of advice in the NPPF and whether the proposals deliver sustainable development. Paragraph 11 of the NPPF requires that 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 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. In this case, whilst there is a neighbourhood plan, the relevant housing supply policies within it have been quashed and so a full planning balance needs to be applied. Notwithstanding this, the proposed development would still need to accord with adopted plan policy and be acceptable with regard to all other material planning considerations.
- 1.2 The proposal for a change of use from a public house to a residential dwelling has been assessed against policies HWS2 of the HNP, GP.32 and GP.93 of the AVDLP which seek to resist the loss of local services and facilities, including public houses, where there is a demonstrable need for such local facilities/services. It is considered that the public house use is not economically viable. This view is supported by the independent assessment undertaken for the Council which also found that all reasonable steps (including marketing) have been taken to retain the recent use as a viable concern.
- 1.3 It is accepted that the development would make a contribution to the housing land supply which is a significant benefit to be attributed limited weight in the planning balance, as it is tempered due to the scale of development that is proposed. There would also be economic benefits in terms of the conversion of the building to a dwelling although the proposal would also result in the loss of a local amenity/facility for the residents of Haddenham and would likely result in a loss to the local economy through its change of use. However, the proposal would secure the future use of the building as a dwelling and secure the long term maintenance of the Grade II listed building.
- 1.4 Compliance with some of the other planning principles of the NPPF have been demonstrated in terms of sustainable transport, healthy communities, natural environment, flood risk, impact upon telecommunications and residential amenity. However, these

matters do not represent benefits to the wider area but demonstrate an absence of harm and therefore have a neutral impact.

1.5 Turning to the adverse matters, the proposal would result in the loss of a local facility in Haddenham. However, there are other existing facilities that provide similar services to the existing public house use, in the area. However, in the light of the expert advice provided to the Council it is acknowledged that the retention of the pub use is not viable and the harm resulting from the loss of this facility needs to be weighed against the potential benefits of the scheme which have been set out in this report.

1.6 There are relevant development plan policies which are consistent with the NPPF and it is considered that the proposal complies with HWS2 of the HNP, GP.32 and GP.93 of the AVDLP and there are no material considerations that indicate a decision other than in accordance with the development plan. It is therefore recommended that the application be **APPROVED** subject to the following conditions:

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

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

2. No windows other than those shown on the approved drawing Nos. U.2/07 and U.2/10 shall be inserted in the building that is the subject of this application.

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

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

landscaping shall be retained as approved thereafter, and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP39 and GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework. Details must be approved prior to the commencement of development to ensure the development is undertaken in a way which ensures a satisfactory standard of tree care and protection.

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

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP9 and GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

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

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

**Informatives:**

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

appropriate, suggesting solutions. In this case, further details regarding the marketing of the property as a public house were requested in support of the applicant's argument. The additional information provided is considered to be acceptable and so the application has been recommended for approval.

3. The applicant is advised that alteration works, whether external or internal, are likely to be subject to listed building consent. Any works carried out in the absence of listed building consent may constitute a criminal offence. It is therefore essential that an application for listed building consent is submitted and approved prior to the commencement of any building operations.

## **2.0 INTRODUCTION**

- 2.1 The application has been brought to the Development Management Committee for determination as Haddenham Parish Council have raised material planning objections and have said that they will address the meeting.
- 2.2 Haddenham Parish Council raised objections on a number of grounds, namely that the applicant's assessment of unviability is unproven, the loss of a valued facility and service, significant heritage harm, and harm to Haddenham's sustainability as a strategic settlement and being contrary to the Draft VALP and Neighbourhood Plan.
- 2.3 These matters are all addressed in the report. In summary response, the District Council's independent assessment confirms that the public house use should not be considered as economically viable and, whilst the proposal would result in the loss of a community facility, it is recognised that reasonable steps have been taken to retain the public house as a viable concern. With regard to the harm to Haddenham's sustainability, there are other facilities within Haddenham village – pubs and cafes - that provide similar services for the local community to use. Compliance with the policies of the HNP, AVDLP and VALP have been demonstrated in this report.
- 2.4 It is therefore considered that the Parish Council has not raised issues that are sufficient to warrant refusing the application.

## **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The application site relates to a two storey, Grade II listed end of terrace building located on the east side of Churchway in the southern part of Haddenham. The building has been used as a public house (known as the Green Dragon) although it has been vacant since November 2018. It lies within the Haddenham Conservation Area. The building is



constructed of rubble stone and brick with a clay tiled roof. The main structure dates from the eighteenth century although there are modern extensions to the side and rear.

- 3.2 To the north, east and south are residential properties, including No.10 Churchway, The Old Vicarage No.22 Church End, and No.6 Churchway, all of which are Grade II listed buildings. To the west is Churchway with further dwellings beyond.
- 3.3 Internally, the building comprises three pub trading areas with a central bar, a large kitchen and storage room to the rear (within the extension). The first floor comprises three bedrooms, lounge/kitchenette, bathroom and toilet. There is a basement with two rooms and with delivery drop to street level at the front. Externally, there is a large tarmac surfaced car park and a large beer garden. There is also a private garden to the rear of the single storey extension.
- 3.4 The building was designated as an Asset of Community Value on 22 December 2015.

#### **4.0 PROPOSAL**

- 4.1 This application seeks full planning permission for the change of use from public house (Use Class A4) with associated residential accommodation, to a single residential dwelling (Class C3). The submitted documents indicate that the public house can no longer be operated as a viable business under a Class A4 use.
- 4.2 The proposal would involve limited external and internal changes to the property, including the removal of an industrial extractor fan. At ground floor, the central bar would be removed and a kitchen installed. Upstairs, an en-suite would be installed to serve the master bedroom. The current access and parking areas would be retained. Externally, pub signage would be removed.
- 4.3 The applicant's agent has been made aware that alterations to the building are likely to require listed building consent. No such application has been submitted at this stage, the agent indicating that the applicant intends to await the result of the current application before preparing an application for listed building consent.

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

- 5.1 76/01339/AV - Improvement of bar and toilet facilities – Approved.
- 5.2 01/01176/APP - Alteration to rear entrance door –Approved.
- 5.3 01/01177/ALB - Alteration to rear entrance door, and internal alterations including turning bottom of staircase – Approved.

- 5.4 85/00925/AV – Conversion of outbuilding into function room – Approved.
- 5.5 85/00926/AV - Conversion of outbuilding into function room – Approved.
- 5.6 93/01238/AAD – Display of public house advertisements - Refused.
- 5.7 93/01642/ALB – Public House signs – Approved.
- 5.8 93/01643/AAD – Public House signs – Approved.
- 5.9 08/02382/ALB – Internal works comprising of repositioning of kitchen and roof extractor, conversion of outbuilding to staff toilet and insertion of patio doors – Approved.

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

- 6.1 Haddenham Parish Council have objected to the application, a full copy of their comments have been attached to the report as an appendix and in summary the following matters have been raised:

(a) Viability assessment – the PC believe that the applicant’s assessment that the Green Dragon is unviable is unproven. Several tenants have operated successfully over the last quarter of a century. In recent years, operators have struggled, partly due to the rent review policy of the previous owner. In 2018 a community interest group was established with widespread village support to buy the pub under right to bid procedure but a bid was not submitted. A bid was made by another village group but although above the asking price this was not accepted by the present owner. It is not true therefore that there has been no interest. The sale terms are unduly onerous. The Bruton Knowles viability report concludes that the pub is likely to be attractive to a family style business with food offer, and states that it is in a good state of repair. However it makes no mention of Haddenham’s 50% growth as a strategic settlement. In summary, the PC urges AVDC not to accept the non-viability arguments.

(b) Loss of valued facility and service – NPPF para 83 states that planning policies and decisions should enable the retention and development of accessible local services and community facilities, including public houses. The Neighbourhood Plan similarly resists the loss of valued facilities and services. The loss of a pub causes harm to the community and local environment through loss of a place for socialising, loss of garden to admire ambience of Church End. Loss of signage/lighting will have deadening effect on appearance of building. Loss of car park (used by St Marys School) will displace cars onto street. There were until recently 3 pubs, shops and a bank at Church End, all now closed.

(c) Significant heritage harm - Besides the loss of the pub itself, there is the impact on the Conservation Area. This is one of AVDCs foremost Conservation Areas, featuring in numerous films. Church End is the backdrop to village life, with the Green Dragon playing a

central role. Pubs in particular have always made a significant contribution to the Conservation Area at Church End. The PC urges AVDC to refuse this application because of the serious heritage harm to the conservation area at Church End. Appeal Inspectors have refused change of use of pubs in Conservation Areas due to importance to character and appearance and harm caused by loss of a valued facility (*several examples are given*).

(d) Harm to Haddenham's sustainability as a strategic settlement - The draft VALP designates Haddenham as a strategic settlement with 50% growth by around 1000 homes. This represents an increase in population from about 4,500 to around 7,000. All but one of the 3 major allocated developments are already under construction. At the time of the Settlement Hierarchy Assessment, Haddenham had 5 pubs, of which 3 were at Church End. Today just 2 of those pubs are still open, and none at Church End. One of the major development sites (Aston Road) is within easy walking distance of the Green Dragon.

(e) Contrary to Draft VALP and Neighbourhood Plan - This proposal is contrary to NPPF, to the emerging draft VALP, and to the Neighbourhood Plan by virtue of all the above issues: the viability assessment, the loss of a valued facility, significant heritage harm to the Conservation Area, and harm to Haddenham's sustainability as a strategic settlement. The application should be refused.

6.2 Ward Councillor (Cllr David Lyons) – objects, raising similar concerns to the Parish Council.

## **7.0 CONSULTATION RESPONSES**

7.1 Buckingham & River Ouzel Internal Drainage Board – outside Board's district. In this instance the Board has no comment.

7.2 AVDC Highways - This proposal would result in fewer traffic movements than the Public House and should therefore be seen as a highway gain. There seems to be sufficient room to provide the correct number of off-street parking spaces with on-site turning. Therefore I have no highway objections or comments to make if the existing access is to be used.

7.3 AVDC Heritage Officer - No objection to the principle of the change of use. The proposal would cause no harm to the significance of the heritage asset. The plans show minimal changes and those proposed acceptable in principle, although they will require further information as a condition to any permission.

## **8.0 REPRESENTATIONS**

8.1 Comments have been received from 147 separate persons. In addition, a representation was received from the Haddenham Village Society.

8.2 The vast majority of responses object to the proposal. The reasons given are summarised as follows:

8.3 *Loss of community facility*

- Green Dragon is a designated asset of community value.
- The loss of the pub is a serious loss to the community.
- There is strong support for its protection by the village and in the Neighbourhood Plan.
- The village only has two pubs and there is a strong need for a food based family pub.
- The village is changing out of all recognition and its identity and character is being lost.
- Church End has lost all its facilities in the last few years.
- Church End needs a pub to build community spirit, social cohesion and wellbeing. We have enough new houses.
- The area attracts many tourists who need somewhere to eat and drink.
- Application is contrary to the draft VALP and Neighbourhood Plan as these require that proposals involving loss of facilities unless no longer financially viable. NPPF requires decisions to protect and retain local facilities.

8.4 *Lack of marketing / viability issues*

- The pub was badly run by Enterprise Inn.
- Recent landlords had to endure ever increasing rents.
- If run well it has a viable future.
- There has been little attempt to market the pub as a going concern.
- This is a cynical and greedy attempt to make money by selling it as a house.
- New owner has no wish to keep it as a pub and has put a covenant on the sale making it unsellable.
- There are other parties who wish to maintain its status as a pub but the owners have terms that make this unviable.

- Bruton Knowles viability statement is superficial/flawed/contains errors and has no trading data later than 2008. It is inaccurate and biased and should be discounted as unreliable. It does not take account of growth of village.
- The CAMRA public house viability test should be used in considering this application as this takes a more balanced approach.
- The wealthy community of Haddenham can sustain these premises as a public house.
- There is a real need for this type of establishment (pub/restaurant) in Haddenham.

#### 8.5 *Heritage issues*

- This is a hostelry with a substantial history (having served as auction rooms, courts, venue for functions) that the village should not lose.
- It is an 18<sup>th</sup> century building recognised as a Grade II listed building and conversion to a house would be a careless loss of heritage.
- It is in a conservation area in need of regeneration following recent closure of other amenities.
- Change of use would have a detrimental effect on the conservation area, due to loss of signage and well as custom.
- The upfront advice from the heritage team focused too much on the physical impact of the application and did not take into account the heritage harm that will arise from the change of use.

#### 8.6 *Traffic/sustainability*

- The resulting traffic would cause congestion and be a danger to children going to St Marys School.
- The loss of the pub would mean loss of much needed parking spaces at school drop off and pick up times.
- If this is granted, it is only a matter of time before there is an application to develop the car park, adding to the excess of traffic and pollution.
- Should this pub not be available, residents would have to drive out of the village to an alternative venue as bus services have ceased and taxi services limited. The community requires walkable options for socialising.

- The population of Haddenham has increased dramatically. New housing (including at The Glebe) will bring in more customers. It is important to maintain facilities so that Haddenham doesn't become a dormitory town.
- Haddenham has been identified as a strategic settlement due to its sustainable transport options and access to local amenities, so closing one of these is contrary to this policy.
- With emphasis on reducing carbon footprints and climate change challenges, local facilities within the village become more vital.

### 8.7 *Employment issues*

- The Green Dragon gave work experience opportunities to village youth.

When last open, 90% of staff were locally based and the pub was an important employer in the village, particularly for young people.

### 8.8 Three representations were in support, summarised as follows:

- The pub has been shut for more than a year and efforts have been made to find a tenant to no avail. It is not viable as a pub anymore.
- It is unloved and deteriorating and would be better preserved as a residential dwelling.
- For many years it has been an unsuccessful business. In recent years there was an unacceptable level of noise with late night drinking.
- Traffic noise at closing time was considerable.

8.9 One representation was neutral, from a business person who stated that he wishes to see the property (to see if it is appropriate to make an investment) but has been unable to do so.

## 9.0 **EVALUATION**

### ***The planning policy position and the principle of conversion for residential use.***

9.1 Members are referred to the Overview Report before them in respect of providing the background information to the Policy. The starting point for decision making is the development plan i.e. the adopted Aylesbury Vale District Local Plan and any 'made' Neighbourhood Plan, which in the current case includes the Haddenham Neighbourhood Plan (HNP). 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**

#### The Haddenham Neighbourhood Plan

9.2 The Haddenham Neighbourhood Plan was 'made' in 2015. However, Chapter 6, relating to housing matters, was quashed by the High Court on 7<sup>th</sup> March 2016 following a legal challenge and cannot be given material weight in the determination of planning applications. However, those policies contained within the remaining chapters of the plan remain in force and attract full weighting.

9.3 Relevant policies include

- TGA1 which sets out the parking standards for new housing developments.
- SRL3 which seeks to enhance, protect and provide new Natural Environment, Habitats, Trees and Hedgerows.
- HWS2 which seeks to protect community amenities, including pubs, unless it can be demonstrated that they are no longer financially viable and that (in the case of the change of use of an asset) all reasonable steps have been taken to retain the present use and community value as a viable concern.

#### Aylesbury Vale District Local Plan

9.4 The policy position and current housing land supply figures are addressed with the overview report that is to be read in conjunction with this Committee Report. What is of relevance, however, is that there are no up-to-date housing supply policies in AVDLP. 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. However, in this case whilst there is a Neighbourhood Plan for Haddenham, the relevant housing supply policies have been quashed and therefore it is not considered to be up-to-date. In any case it was 'made' more than two years ago and paragraph 14 of the NPPF does not apply and so it is necessary to engage paragraph 11d and apply the planning balance.

9.5 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 GP8, GP24, GP32, GP.35, GP38 – GP.40 and GP93.

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

- 9.6 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. Further to this AVDC has provided the VALP Inspector with its suggestions for the Modifications to the Plan. The Inspector set out the timetable for the formal publication of the Modifications and the accompanying consultation. Following further discussions with the Inspector the council has published for consultations the Main Modifications, which have been agreed with the Inspector, on 6 November 2019. The period for making representation ran until 17 December 2019. The adoption of the Vale of Aylesbury Local Plan is planned to be early 2020.
- 9.7 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 be given some weight in planning decisions given the stage it is at, and the evidence that sits behind it can be given weight. This will be highlighted in individual reports. 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. The policies to which the relevant weight needs to be considered in this case are BE1 (Heritage assets), BE2 (Design of new development), I3 (Community facilities, infrastructure and assets of



community value), NE1 (biodiversity and geodiversity), D7 (Town, village and local centres to support new and existing communities), NE8 (trees, hedgerows and woodlands, T6 (vehicle parking), S3 (settlement hierarchy and cohesive development) and BE3 (protection of the amenity of residents).

9.8 Policy BE3 has been the subject of objections and the Inspector has not requested main modifications so can be regarded as resolved and this policy can be given considerable weight. Where the remainder of these policies have been the subject of objections and the Inspector requested main modifications, he has confirmed that he is satisfied they remedy the objection so these can be given moderate weight. The weight to be given is considered further in the paragraphs below.

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

9.9 The Haddenham Neighbourhood Plan states, in section 9.3, that there are a number of buildings that are presently used to further the social well-being or social interests of the local community with which local people have a strong affinity. The Green Dragon public house is specifically listed as one of the buildings that would be nominated to AVDC for designation as an Asset of Community Value which would provide the community the opportunity to bid to acquire the asset if placed on the open market. It adds that development plans (proposals) that result in their loss or significant harm will be resisted.

9.10 Policy HWS2 (Protecting Community Assets) states that the retention and enhancement of local services and community facilities, including pubs, will be supported. It adds that proposals involving the loss of facilities will not be permitted unless it can be demonstrated that they are no longer financially viable whilst proposals to change the use of an asset must demonstrate that all reasonable steps have been taken to retain its present use and community value as a viable concern. Footnote 79 adds that "reasonable steps" in the case of a public house must include extensive marketing to find a suitable tenant at a rent that is reasonable given the trading potential of the premises. It adds that the failure of a Public House owner to obtain rental values out of proportion to the profitability of a village public house would not be considered as a reason for change of use under the "non-viable concern" criteria.

9.11 Saved Policy GP.32 of the AVDLP states that the Council will resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will

have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. Where permission includes building conversions, conditions will be imposed so as not to exclude later resumption of the existing use.

- 9.12 The explanatory text for this policy in paragraph 4.98 states that in rural areas, it is important to protect shops, post offices and public houses, as these fulfil a local function providing local services and reducing the need to travel. This protection is particularly important where there are no alternatives available locally. Applicants will need to satisfy the Council that the existing use is no longer viable and that a genuine attempt has been made to market the enterprise as a going concern. Where development is permitted, it would be regrettable if the building works prevented the future resumption of the former, or similar activity.
- 9.13 Saved Policy GP.93 of the AVDLP states that the Council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need. In considering applications for alternative development or uses, the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. Where permission includes building conversions, conditions will be imposed so as not to exclude the later resumption of a community use.
- 9.14 Policy I3 of VALP states that the council will resist proposals for the change of use of community buildings and facilities for which there is a demonstrable local need, unless the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. It adds that in considering applications for alternative development or uses, the council will consider the viability of the existing use, that the site/use has been marketed for a minimum period of 12 months at a price commensurate with its use together with proof there has been no viable interest, marketing of the building or facility at a price commensurate with its use, the presence of alternative local facilities and the community benefits of the proposed use. This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.
- 9.15 Policy D7 of VALP states that local and village centres will be encouraged to grow and loss of essential facilities and businesses such as local shops, pubs and post offices will not be supported. This policy is to be given considerable weight as whilst there are objections to

the policy, the inspector has not requested main modifications (and as such the policy will not be changed in a material way) and therefore the objections can be treated as resolved.

- 9.16 The NPPF states (in paragraph 192) that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 195 adds that where a proposal will lead to substantial harm of a designated heritage asset, planning permission should be refused unless the substantial public benefits outweigh the harm, including there being no viable use of the heritage asset able to be found in the medium term through appropriate marketing.
- 9.17 The Planning Practice Guidance (PPG) provides further guidance with respect to viable uses for heritage assets in paragraph 15 of the section on Historic Environment. It states that it is important that any use is viable, not just for the owner, but also for the future conservation of the asset. It further states that if there is only one viable use, then that is the optimum viable use. Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused provided the harm is minimised.
- 9.18 Paragraph 16 of the PPG states that appropriate marketing is required to demonstrate the redundancy of a heritage asset in the circumstances set out in [paragraph 195b) of the NPPF. The aim of such marketing is to reach all potential buyers who may be willing to find a use for the site that still provides for its conservation to some degree. If such a purchaser comes forward, there is no obligation to sell to them, but redundancy will not have been demonstrated.
- 9.19 Taking the above policy background into account, it is considered that a proposed change of use could be acceptable, subject to the proposal demonstrating a compliance with the relevant neighbourhood plan and local plan policies which are considered further in the following paragraphs. Firstly, however, the Asset of Community Value process will be outlined as it relates to this building.

#### *Asset of Community Value*

- 9.20 An asset of community value (ACV) is land or property of importance to a local community which is subject to additional protection from development under the Localism Act 2011.
- 9.21 On 15 October 2015, Aylesbury & Wycombe CAMRA nominated the Green Dragon public house (including manager's flat above) as an ACV. This nomination was accepted by AVDC and the property was designated as an ACV on 22 December 2015 under section 87 of the Localism Act 2011. The consequence of listing is that the land will remain on the

list of assets of community value for a period of 5 years from the date of this notice unless removed with effect from some earlier time in accordance with the provision of the Regulations. ACV status is a material consideration when dealing with planning applications that affect an asset.

9.22 On 6 November 2018, AVDC received a notice from the owner of the intention to sell the Green Dragon building. This triggered an interim moratorium period (six weeks) during which community interest groups were able to register an expression of interest in purchasing the property (under the Community Right to Bid). This period started on 8 November 2018 and expired on 18 December 2018. A community interest company calling themselves “Green Phoenix” was formed and registered an interest in buying the property. The full moratorium period ended on 5 May 2019 (six months after the notification to sell). In March 2019, the Green Phoenix CIC decided not to proceed with the attempted purchase of the Green Dragon building. The Parish Council’s response states that another group made an offer on the building, but that this offer was turned down in favour of the bid by the present owner, who returned the property to the market in Spring 2019. It should be noted that at the end of the period, the owner may sell it to whoever and at whatever price they choose and the seller is not obligated to accept an offer.

9.23 Therefore, it is understood that the applicant (the present owner) and the previous owner have correctly complied with the requirements of the Asset of Community Value / Community Right to Bid process. However, it is still necessary to assess whether the proposal complies with relevant HNP and local plan policies with regard to viability.

*Viability of existing use*

9.24 In coming to a view on whether the proposals comply with policy HWS2 of the HNP and GP32 and GP93 of AVDLP, officers have had regard to the viability of the existing use. The applicant has provided a letter dated 1 October 2019 from Bruton Knowles containing an appraisal as to the viability of the property as a public house. The assessment examines factors such as likely turnover, gross profit margins, staff costs, other overheads and property costs. It states that in a best case scenario the public house could only be operated just above break-even level and the rewards would not be sufficient to justify the risks. As such, it concludes that the Green Dragon is not capable of being re-opened on a profitable basis in the foreseeable future and is therefore not viable as a public house.

9.25 The Parish Council, Haddenham Village Society and other respondents have criticised the applicant’s viability assessment as being inaccurate or based on limited information. For example, the Village Society states that it does not take account of recent development in the village and the Parish Council response states that it contains limited data on past

trading. Several responses state that it contains errors or is biased and others argued that the Campaign for Real Ale (CAMRA) public house viability test should be used in considering this application as this takes a more balanced approach. It is noted, however, that the Bruton Knowles report states that they are aware of the CAMRA public house viability test.

- 9.26 The applicant's Design and Access Statement states that the Green Dragon has been extensively marketed both for sale and lease since 2017 and that this marketing will continue during this application process and if a tenant or buyer is found the application may be withdrawn. Details of the marketing material showing the pub marketed for rent of £25,000 (introductory period) from 2017-18 with Enterprise, for sale (£500,000, freehold) from November 2018 to May 2019 with Fleurets and for sales and rental (June 2019 onwards) with Sidney Phillips has been provided in Annex B. This includes a letter from Sidney Phillips dated 27 September 2019 that sets out the marketing campaign undertaken since May 2019.
- 9.27 Some respondents have also criticised the marketing of the property, stating that there has been little attempt to market the pub as a going concern and that the terms of sale make it unsellable. For example, the Haddenham Village Society stated that the terms under which the freehold is being marketed includes an overage provision of 70% of the betterment value in the event of a change of use for a period of 70 years in favour of the seller and claim that this would limit the number of parties who are able to bid.
- 9.28 The Design and Access Statement further adds that the owners have looked at other commercial uses such as restaurant, nursery, convenience store and bed and breakfast but that each of these would not be suitable, including due to the limitations on layout arising from the listing of the property. The statement adds that there are signs of damp and decay from having been empty for 12 months and that it is essential that the building is occupied soon.
- 9.29 The council instructed Savills to assess the viability and marketing report prepared for the owner to be independently verified to confirm the viability of the property as a public house and that it is and has been marketed appropriately as a going concern. This report found that the layout of the trading areas is not ideal and the kitchen is large in relation to the number of covers in the dining room. However, the property is in good condition, despite being closed for some time. With regard to the business, the report concluded that the estimated annual profit (before property costs) would be £45,200 per annum. If the operator has a lease and pays a rent of £30,000 per annum, this would leave a profit of £15,200. If the operator has the freehold, and has finance charges of £27,500, the profit

would be £17,700 per annum. These are insufficient rewards for the long hours that publicans have to put in.

- 9.30 Savills added that with regard to marketing, there was one offer put in by an inexperienced first time buyer but no deposit was offered and due to a lack of available funds the transaction did not complete. Savills contacted Fleurets, who marketed the property from November 2018 to May 2019. Enterprise Inns initially sought a tenant on free of tie terms but then sought a freehold disposal. Fleurets added that during this marketing period there were a total of nine viewings including the current owner. Most of these parties wished to retain the public house use. There was then a bidding process whereby the current owner was successful. The other bidder also wanted to retain the public house use. Since the purchase of this pub no operator has come forward through Sidney Phillips to either buy the freehold or rent as a pub. There has been no interest from multiple operators.
- 9.31 With regard to the overage issue raised by several objectors, Savills explained that this provision is usually put in place to stop someone from buying an asset and then turning a large profit by getting a change of use (for example for residential development). They added that from a pub operator point of view this should not make any difference as they would want to run a pub. Hence the inclusion of an overage provision would only put off developers and not prospective pub operators.
- 9.32 Savills also stated that whilst an operator or owner could make a profit this ignores all property holding costs such as repayment of a mortgage or loan. The type of operator is unlikely to have substantial cash reserves to undertake a large refurbishment which would include remodelling the rear kitchen area. Savills added that a drinks led operation would not survive on its own and the relatively small trading areas act as a barrier to increasing turnover. The lifestyle changes taking place over the last six years have made premises such as the Green Dragon become increasingly unviable. In addition, significant housing development in the village does not necessarily mean new residents would frequent the pub.
- 9.33 In conclusion, Savills consider that the property is unlikely to be commercially viable now and in the longer term.
- 9.34 On the basis of the available evidence, including Savills independent assessment, it is concluded that the property cannot be properly considered financially viable as a public house and that all reasonable steps (including marketing) have been taken to retain the recent use as a viable concern. VALP policy I3 requires a minimum of 12 months marketing but evidence has been provided to show that the property has been marketed

for considerably longer than this. Savills have raised no concerns in relation to the marketing.

*Alternative establishments*

- 9.35 In coming to a view on whether the proposals comply with the second criterion set out in the second paragraphs of policies GP32 and GP93, officers have had regard to the presence of alternative local facilities in the area.
- 9.36 Savills have stated that whilst many objections to the application suggest that there is a lack of other facilities on offer, there are other facilities within Haddenham village for the local community and business workers, including two pubs (Kings Head and Rising Sun) and eight cafes, restaurants and coffee shops. It is, however, noted that only two of these local venues (Kings Head and House of Spice) are open for food in the evening.
- 9.37 Savills add that the area surrounding the application property is residential with limited footfall and it would rely on 'destination' custom. Most of the competition premises are located in the nearby population cluster of Thame Road and are therefore in more prominent positions benefiting from passing trade. There are also similar facilities in surrounding villages and in Thame, less than 3.5 miles away.
- 9.38 Therefore it is concluded that there are other existing facilities that provide similar services to the existing public house use, in the area, including within Haddenham itself.

*Community benefits of the previous and proposed uses*

- 9.39 Several objectors have stated that the Green Dragon public house was (and could still be) a valued community facility for the residents of Haddenham. These respondents have argued that the Church End part of the village needs a pub to build community spirit, social cohesion and wellbeing and its loss would be harmful in this regard. Policies in the Haddenham Neighbourhood Plan (HWS2), AVDLP (GP32 and GP93) and VALP (D7 and I3) all seek to protect community facilities such as pubs where there is a demonstrable local need. It is considered that the change of use of the public house to residential would have a limited community benefit (given that there is accommodation provided above the public house as existing). The occupation of this building for residential purposes would contribute, although in a more limited way, to the local economy and further public benefits would arise from the safeguarding of a historic building. It is however acknowledged that any benefits are tempered given the current community benefit provided by the established public house that lies in the heart of the village, which would otherwise be in use and serving a local need.

*Conclusions*

- 9.40 Policy HWS2 of the HNP supports the retention of local services and community facilities including pubs. AVDLP GP32 states that the Council will resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need. In considering applications for alternative development or uses the Council will have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use. In rural areas it is important to protect shops, post offices and public houses as these fulfil a local function providing local services and reducing the need to travel. This protection is particularly important where there are no alternatives available locally.
- 9.41 In this case, there is clearly a strong desire from many members of the local community to retain the building as a public house. However, there are alternative facilities nearby and there is independent evidence that its retention as a pub would not be economically viable. As such, it is the case that the premises is not viable within the A4use class and that, the proposed change of use should be supported. The proposal would not therefore conflict with policies HWS2 of the HNP, GP.32 and GP.93 of AVDLP and I3 and D7 of VALP. It is concluded that the loss of economic and social benefits to the local community would not significantly outweigh the potential benefits of the scheme and would also comply with the guidance of the NPPF.

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

- 9.42 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).
- 9.43 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).
- 9.44 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 7-211 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. Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-



date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 9.45 The following sections of the report will consider the individual requirements of sustainable development as derived from the Framework and an assessment made of the benefits together with any harm that would arise from the failure to meet these objectives.

#### Sustainable location

- 9.46 Haddenham is a large village with a population just under 4,377, situated to the south west of Aylesbury, near to Thame in South Oxfordshire. There is a good range of services, although it is recognised that some of these have been lost in recent years. It has a large number of jobs at nearby Haddenham Business Park. There is also a relatively good bus services to other urban areas, including Aylesbury, and a nearby railway station, 'Haddenham and Thame Parkway' with regular train services to London, Birmingham and Stratford-upon-Avon.
- 9.47 Haddenham is classed in the Settlement Hierarchy Assessment Report September 2017 (and Table 2 of VALP) as one of the five strategic settlements that have a substantially greater range of facilities and services in comparison to the other settlements within the district. Strategic settlements typically have a population of above 4,000 and provide the greatest range of services and facilities in the District playing an important role in supporting the smaller rural settlements. These settlements typically offer a choice of shops, a post office, a fire and/or police station, a library, and a range of employment opportunities. They are also well-served by public transport with hourly or more bus services. These settlements have all of the key services.
- 9.48 On this basis, it is therefore accepted that Haddenham is a sustainable location for residential development subject to the scale of growth that could reasonably be considered sustainable not only in terms of its impact on the localised site and surrounding but also in terms of the wider capacity of the settlement to accept further population growth, having regard to its impact on the infrastructure and local services and the community itself. The proposal, if implemented, would result in the addition of a marketable unit of residential accommodation. At present the residential element of the building is ancillary to the use as a pub.
- 9.49 Therefore, in broad sustainability terms, the provision of one new dwelling in this location which falls within the built-up area of the village is considered acceptable. However. this

proposal still has to be assessed against all other material considerations and the outcomes fed into the planning balance.

*Deliver a sufficient supply of homes*

- 9.50 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.
- 9.51 Paragraphs 77-79 of the NPPF (2019) are particularly relevant to this application for rural housing. Paragraph 78 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 9.52 The provision of one net independent dwelling would add to the housing stock. There is no reason why the development will not be finalised and delivered within the next five year period making a contribution to housing land supply which be a significant benefit, tempered by the scale of the development and its limited contribution; also the Council can demonstrate a 5 year housing land supply and as such the level of positive weight to be attributed to housing in this case is considered limited in the overall planning balance.

*Build a strong competitive economy*

- 9.53 Consideration is given to whether the development would 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.
- 9.54 Paragraph 83 of the NPPF 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. Part (d) in particular states that decisions should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 9.55 It is considered that there would be economic benefits arising from the development through the creation of employment opportunities during the conversion of the building to a dwelling itself and the resultant increase in population contributing to the local economy.

However, the proposal would result in the loss of a local business and a significant local amenity/facility for the residents of Haddenham and would likely result in a loss to the local economy through its change of use, although the proposal would contribute towards the long term viability of the building, ensuring its upkeep for the foreseeable future.

- 9.56 Some comments made referred to the economic benefits of the public house use, including employment opportunities for young people. This is noted, although the pub is currently closed and is not considered to be economically viable as a public house or suitable for another similar commercial use. Had the public house been operational it is accepted that the proposed change of use would result in a loss of economic benefits. However, it is noted that the public house is currently closed with little prospect of reopening and as such it is considered that this is a matter which would be neutral.

*Promoting healthy and safe communities*

- 9.57 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. It will therefore be necessary to consider how each scheme addresses these issues.
- 9.58 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.).
- 9.59 Policies I1 (Green Infrastructure), I2 (Sports and Recreation) and I3 (Community Facilities and Assets of Community Value) of VALP all have moderate weight and are not relevant to this planning application.
- 9.60 The development does not meet the threshold for requiring financial contributions in respect of leisure, recreation and education.
- 9.61 As stated above, Haddenham is a larger village with provision of key services. The site is within easy walking distance of these services and so there would be opportunities for the future occupiers of the new unit to interact with the local community, in accordance with the aims of paragraph 91 of the NPPF. This matter should be afforded neutral weight in the planning balance.

*Promoting sustainable transport*

- 9.62 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.
- 9.63 In respect of transport sustainability, the site is situated in the built up area of Haddenham and is therefore well placed in terms of accessibility for the potential occupiers of the development to access essential services on foot. Various public transport options are also available within reasonable walking distance of the site.
- 9.64 The AVDC Highway Engineer has been consulted and has stated that this proposal would result in fewer traffic movements into and out of the access than the Public House has the potential to produce and should therefore be seen as a highway gain. Therefore the Highways Officer has raised no highway objections if the existing access is to be used. The Design and Access Statement confirms that the current access would be retained. It is therefore concluded that safe and suitable access to the site can be achieved for all users in accordance with paragraph 108 of the NPPF (2019).
- 9.65 With regard to parking, Policy TGA1 of the HNP seeks to ensure that proposals meet minimum parking standards through allocated on-site car parking spaces. For a dwelling with 3 bedrooms or more, as is proposed in this case, two parking spaces plus 2 cycle spaces are required as a minimum.
- 9.66 Policy GP24 of the AVDLP requires that new development accords with published parking guidelines. SPG1 "Parking Guidelines" at Appendix 1 sets out the appropriate maximum parking requirement for various types of development. For dwellings of 4 bedrooms, it suggests that three parking spaces should be provided within the curtilage of the dwelling.
- 9.67 Policy T6 of VALP states that all development must provide an appropriate level of car parking in accordance with the standards set out in Appendix B of the plan. This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.
- 9.68 For a dwelling with 4 bedrooms, 3 spaces are required. The car parking standards set out in VALP are optimum standards; the level of parking they specify should be provided within the curtilage unless specific local circumstances can justify deviating from them. Proposals for provision above or below this standard must be supported by evidence detailing the local circumstances that justify the deviation.

9.69 In this case, although limited details have been provided, there is parking space within the existing car park which would be retained. The AVDC Highways Engineer stated that there seems to be sufficient room to provide the correct number of off-street parking spaces with on-site turning. It is therefore considered that the proposal would comply with TGA1 of HNP, GP.24 of the AVDLP, policy T6 of VALP, the Council's Parking Standards and the NPPF in this regard.

9.70 This matter should be attributed neutral weight in the planning balance.

Supporting high quality communications

9.71 Paragraph 114 of the NPPF requires LPA's to ensure that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.

9.72 Given the nature and location of the proposed development, and bearing in mind that this would be reusing an existing building, it is considered unlikely for there to be any adverse interference upon any nearby broadcast and electronic communications services as a result of this development, and therefore it is considered that the proposal would accord with the guidance set out in the NPPF and this factor is afforded neutral weight in the planning balance.

Making effective use of land

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

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

9.75 In this instance, the proposed dwelling would be created by re-using/converting previously developed land and buildings (as defined in Annex 2) but the principle of on-site accommodation has already been established in any case as accommodation exists above the main public house service areas. It is therefore considered that this would represent an efficient use of land within a built up area. As the proposal would amount to an acceptable use in policy terms, this matter is afforded neutral weight in the overall planning balance.

Achieving well-designed places

- 9.76 The NPPF at paragraph 8, states that one of the overarching principles of the planning system is a social objective, including fostering a well-designed and safe built environment. 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. NPPF paragraph 124 highlights that 'Achieving well designed places' is central to the purpose of the planning system and to achieving sustainable development.
- 9.77 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).
- 9.78 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. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments comply with key criteria.
- 9.79 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.
- 9.80 Policy BE2 of VALP states that all new development proposals shall respect and complement the following criteria:
- a. The physical characteristics of the site and its surroundings including the scale and context of the site and its setting
  - b. The local distinctiveness and vernacular character of the locality, in terms of ordering, form, proportions, architectural detailing and materials

- c. The natural qualities and features of the area, and
- d. The effect on important public views and skylines.

- 9.81 This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.
- 9.82 In this proposal, there would be very limited changes to the external appearance of the building, with the only change at the front being the removal of the pub signage. However, the Heritage Officer has requested that one of the signs should be retained in order to acknowledge the history of the building. This can be secured through a condition. The only other external change would be the removal of an industrial extractor fan.
- 9.83 On the basis that there would be almost no change to the appearance of the building, it is considered that the proposal would have an acceptable impact on the visual amenities of the site and wider area, in accordance with policy GP35 of the AVDLP, BE2 of VALP and advice in the NPPF. It is therefore considered that in assessment of good design, the proposals should be accorded neutral weight in the planning balance.

*Meeting the challenge of climate change and flooding*

- 9.84 Developments will need to demonstrate resilience to climate change and support the delivery of renewable and low carbon energy.
- 9.85 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. Paragraph 163 of the NPPF requires new development to consider the risk of flooding to the site and elsewhere.
- 9.86 The site is located within Flood Zone 1 and the development would therefore be at low risk of flooding. In addition, almost no external works are proposed as part of the change of use application. Therefore, the proposed development would be resilient to climate change and flooding and it would not increase flood risk elsewhere in accordance with NPPF.
- 9.87 As such, it is considered the proposed development would be resilient to climate change and flooding and would not increase flood risk elsewhere in accordance with the Framework. This factor should therefore be afforded neutral weight in the planning balance.

*Conserving and enhancing the natural environment*

- 9.88 Consideration is given to 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 as required by the NPPF in paragraph 170.
- 9.89 Policies GP.35 of the AVDLP requires new development to respect and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines. This policy is considered to be consistent with the NPPF. It is also reinforced by the Council's adopted supplementary planning guidance in the form of the New Houses in Towns and Villages Design Guide which encourages new development to recognise and respect landscape and local character. GP.38 states that development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible. Policies GP39 and GP40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value. BE2 of VALP (moderate weight) is also material (Achieving Well Designed Places refers). NE8 (moderate weight) of VALP seeks to ensure that development enhances and expands the District's tree and woodland resource. This policy is to be given moderate weight in the decision making process as the inspector has considered the proposed modifications and in agreeing them for consultation, has confirmed are reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far. Policy SRL3 of HNP seeks to enhance, protect and provide new Natural Environment Habitats, Trees and Hedgerows.
- 9.90 In this case, the site is entirely brownfield land and the proposal involves the change of use of an existing building within the built up area of the village. Although there are some trees on the site, and some protected trees to the north and east of the site, these would not be affected.
- 9.91 Paragraph 170 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity. Emerging VALP Policy NE1, which has moderate weight, states that Internationally or nationally important Protected Sites (SACs and SSSIs) and species will be protected. As there would be almost no change to the appearance of the site, there would be an absence of harm to arise as a result of the proposed development on biodiversity.
- 9.92 Overall, it is considered that there would be no negative impact upon the natural environment. It would therefore have an acceptable impact on protected species and their



habitats and would therefore comply with policies GP38-40 of AVDLP, policy SRL3 of HNP, policies BE2, NE1 and NE8 of VALP and relevant NPPF advice and therefore should be accorded neutral weight in the planning balance.

*Conserving and enhancing the historic environment*

- 9.93 The National Planning Policy Framework (NPPF) recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 184 of the NPPF identifies heritage assets as an irreplaceable resource which should be conserved in a manner appropriate to their significance.
- 9.94 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 9.95 Paragraph 195 states that where a proposed development would lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply: the nature of the heritage asset prevents all reasonable uses of the site; no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use.
- 9.96 Policy GP.53 of the AVDLP supports the provision of new development in and adjacent to a Conservation Area, provided that the development proposals preserve or enhance the special characteristics. 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.
- 9.97 Policy BE1 (Heritage Assets) of VALP states that all development including new buildings, alterations, extensions, change of use and demolitions, should seek to conserve heritage asset in a manner appropriate to their significance, including their setting and seeking enhancement wherever possible. This policy is to be given moderate weight in the decision making process as the Inspector has considered the proposed modifications and in

agreeing them for consultation, has confirmed that he is reasonably satisfied that they remedy the points of unsoundness identified in the examination process so far.

- 9.98 Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In this case, the building is a Grade II listed building. Several nearby buildings are also Grade II listed, including No.6 Churchway to the south, and no.10 to the north. The site is also within the Haddenham Conservation Area.
- 9.99 Several objections were made on the basis of heritage concerns, stating that the change of use would have a detrimental effect on the conservation area and on the Grade II listed building. The Parish Council highlighted that this is one of the District's foremost conservation areas, with pubs making a significant contribution to Church End. They also gave examples where appeal inspectors have refused the change of use of pubs in conservation areas due to the importance to the character and appearance of the area.
- 9.100 The Council's Heritage Officer was consulted and raised no objection to the principle of the change of use on the basis that the plans show minimal changes to the building. The officer concluded therefore that the proposal would cause no harm to the significance of the heritage asset.
- 9.101 However, a key element of the building's historic interest is its use as a public house. The conversion works would inevitably affect this character as a result of the proposed change of use, but given the very limited level of alteration, it is not considered that any material harm would result such that the application could be refused on those grounds. The Heritage Officer has stated that in order to acknowledge the history of the building as a public house, a sign should be retained.
- 9.102 Special regard has been given 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 buildings 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 proposals, due to the design of the development, would not preserve the character and appearance of the conservation area or the setting of the listed buildings and so the proposal would not comply with sections 66 or 72 of the Act or guidance contained within the NPPF.
- 9.103 As such the proposal would cause no harm to the significance of the heritage asset, and accords with guidance contained within the NPPF, with the aims of policy GP53 of the AVDLP and policy BE1 of VALP. This factor should therefore be afforded neutral weight.

***(d) Impact on residential amenity***

- 9.104 The NPPF at paragraph 127 sets out guiding design principles. One of the principles set out is that authorities should always seek to create places that have a high standard of amenity for all existing and future users.
- 9.105 AVDLP policy GP.8 states that permission for development will not be granted where unreasonable harm to any aspect of the amenities of nearby residents would outweigh the benefits arising from the proposal.
- 9.106 Policy BE3 of VALP seeks to protect the amenity of existing residents and achieve a satisfactory level of amenity for future residents. This policy is to be given considerable weight as whilst there are objections to the policy, the inspector has not requested main modifications (and as such the policy will not be changed in a material way) and therefore the objections can be treated as resolved.
- 9.107 As almost no external works are proposed, it would appear only appropriate in this instance to consider relevant factors resulting from the proposed change of use to a dwelling. However as the existing building falls within a Class A4 use (public house) it is reasonable to suggest that an operating public house would return a level of noise that is greater than could be expected compared with a single family dwellinghouse. Similarly the number of traffic movements would be expected to be fewer resulting in less potential for traffic conflicts within the immediate locality. Noise levels within the premises and outside would be anticipated to be lower as a result of the change of use. One supporting comment stated that in recent years there had been an increase in noise levels with late night drinking and another stated that traffic noise at closing time was considerable.
- 9.108 As such, it is considered that the proposal would provide some benefits in terms of reduced noise and disturbances from the continued use as a public house for the immediately adjacent existing neighbouring properties. Therefore, as there would be no adverse implications on nearby residents as a result of the change of use, the proposals are considered to comply with policy GP8 of the AVDLP, BE3 of VALP and NPPF. This factor should therefore be afforded neutral weight.

Case Officer: Bibi Motuel

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# Consultee Comments for Planning Application 19/03535/APP

## Application Summary

Application Number: 19/03535/APP

Address: The Green Dragon 8 Churchway Haddenham Buckinghamshire HP17 8AA

Proposal: Change of use public house to single residential dwelling.

Case Officer: Bibi Motuel

## Consultee Details

Name: Clerk Haddenham Parish Council

Address: Parish Council Office, Banks Road, Haddenham HP17 8EE

Email: clerk@haddenham-bucks-pc.gov.uk

On Behalf Of: Haddenham Parish Council

## Comments

### Summary

The Parish Council objects to the proposed change of use on the following grounds:

- (a) Viability assessment
- (b) Loss of valued facility and service
- (c) Significant heritage harm
- (d) Harm to Haddenhams sustainability as a strategic settlement
- (e) Contrary to Draft VALP and to the Neighbourhood Plan

### Context

1. The Green Dragon is a listed building in the Conservation Area. It has also been confirmed by AVDC as an asset of community value, having been nominated both in the Haddenham Neighbourhood Plan and by CAMRA. In addition to the architectural citation in AVDCs 2008 Conservation Area review, the Green Dragon was historically also a coaching inn and home to the Manorial Court until 1924.

2. Draft VALP sets out at Chapter 8 AVDCs approach to listed buildings, conservation areas, and heritage assets. In defining the significance of heritage value VALP draws on Historic Englands Conservation Principles. Particularly relevant here are those described as evidential, historic and communal in paras 8.28, 8.29 and 8.31 respectively (see below). Draft Policy BE1 states that the Council will:

Require development proposals that cause substantial harm to, or loss of a designated heritage asset and its significance, including its setting, to provide a thorough heritage assessment setting

out a clear and convincing justification as to why that harm is considered acceptable. Where that case cannot be demonstrated proposals will not be supported unless the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss and accord with the requirements of national guidance, and

Require development proposals that cause less than substantial harm to a designated heritage asset to weigh the level of harm against the public benefits that may be gained by the proposal, including securing its optimum viable use.

3. Haddenham Neighbourhood Plan (as amended) has been adopted by AVDC as part of its own approved development plan. The Neighbourhood Plan states at para. 9.3.1:

Combined with the statutory protection of the Conservation Area, and the ongoing focus to conserve and enhance the historic environment and heritage assets in the Parish, the function of community amenities should also be protected because of their importance to village life and enjoyment by residents of Haddenham and surrounding villages; development plans that result in their loss or significant harm will be resisted.

4. Neighbourhood Plan Policy HWS2: Protecting Community Amenities states:

The retention and enhancement of local services and community facilities including shops, pubs, food outlets and commercial services will be supported. Proposals involving the loss of facilities will not be permitted unless it can be demonstrated that they are no longer financially viable whilst proposals to change the use of an asset must demonstrate that all reasonable steps have been taken to retain its present use and community value as a viable concern.

Viability assessment

5. The PC believes that the applicants assessment that the Green Dragon is unviable is not proven. The applicants submission by Bruton Knowles admits that they had limited information on past trading. In fact several tenants have operated successfully over at least the last quarter of a century, when it has been most successful as a dining pub, in some cases winning local accolades. In the last few years operators have struggled, but not least because of the particular rent review policy of the previous owner (a pub chain) which stifled, or indeed terminated, promising initiatives.

6. The pub chain put the pub on the market in 2018. A community interest group was established with widespread village support with a view to bidding to acquire the Green Dragon for a community pub under the community right to bid procedure. Unfortunately the period of grace allowed proved insufficient to complete the legal requirements and raise the capital, and a bid was not submitted. However a bid was made by another village group for a dining pub to be led by a village-based named chef with a quality food offer. Although their bid was above the asking price, the PC understands that this offer was not accepted in favour of the bid by the present owner, who

then returned the property to the market soon after purchase in Spring 2019. Crucially, it is therefore not the case that there has been no interest for over 12 months.

7. The current application does not make clear that the terms of sale include an overage provision of 70% of the betterment value in the event of change of use for a period of 70 years in favour of the seller. The PC has had conversations with two parties potentially interested in the Green Dragon as a pub, but are not bidding because these sale terms are considered unduly onerous, particularly if seeking to raise a loan. AVDC will need to evaluate this situation, but again, it cannot be said that there is no interest.

8. The PC notes that Bruton Knowles report that market evidence is showing that the rate of pub closures and conversions to other uses is slowing, and concludes that there is more activity in the sale of freehold freehouses than in previous years, and values are slowly rising. The report goes on to suggest that the Green Dragon is likely to be attractive to a family-style business with a food offer.

9. Significantly, the viability report makes no mention of the marketing opportunity afforded by Haddenhams 50% growth as a designated strategic settlement (see below).

10. The applicant argued at our public Planning Committee meeting that change of use is needed urgently to prevent building deterioration. However the Bruton Knowles report states that The property is in a relatively good internal state of repair. Although some external repairs needed, the report says that a figure in the region of £12,500 would be sufficient for these works. AVDC will be aware that NPPF advises that fabric deterioration should be discounted when considering development of a listed building.

11. In summary, the PC urges AVDC not to accept the non-viability arguments.

Loss of valued facility and service

12. Para 83 of the revised NPPF under the section Supporting a prosperous rural economy states:

Planning policies and decisions should enable [inter alia] the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

13. The Neighbourhood Plan quoted above similarly resists the loss of valued facilities and services. The loss of activity associated with a pub in particular causes harm to the community and local environment. A place where members of the public can meet and socialise will no longer be there. A garden in which to enjoy food and refreshment and admire the special ambience of Church End will be lost to the local community. The removal of signage and lighting produces a

deadening effect on the buildings appearance. The comings and goings which give this building life will disappear. The Green Dragons car park is included in nearby St Marys School Travel Plan as parking for school drop-off and collection; today the car park gates, always previously open, are locked shut, deadening the frontage and with the cars displaced onto the street. There were until recently 3 pubs, shops and a bank at Church End; all are now closed and the services lost.

#### Significant heritage harm

14. Besides the loss of the pub itself, there is the impact on the Conservation Area. This is one of AVDCs foremost Conservation Areas. Besides featuring in numerous film and television productions, Church End is the backdrop to village life including the annual Mayday celebration, Haddenham fete and annual fair, with the Green Dragon for long playing a central role. Historic Englands Conservation Principles quoted in the draft VALP recognise the importance of activity as a contribution to significance, and in particular to the importance of evidential, historic and communal factors. These underline the impact a building can have in its context where it represents a communitys engagement with the wider historic environment, and contributes to a conservation areas particular character. Character derives not only from architecture and built form, but from the presence of mixed uses and activities. Change of use means yet more encroachment of the all-pervasive tendency towards residential monoculture which can so erode conservation area character. Pubs in particular have always made a significant contribution to the Conservation Area at Church End. The PC urges AVDC to refuse this application because of the serious heritage harm to the conservation area at Church End.

15. The Heritage teams advice to the applicant does not pick up on the impact of closure in terms of heritage harm. AVDC can take confidence from the following examples of appeal decisions which have refused the change the use of pubs in conservation areas because Inspectors have prioritised the importance of a pub to the character and appearance of a conservation area, and the significant harm caused to a community by the loss of a valued facility:

In July 2012 the Inspector dismissed an appeal to change the use of The Cross Keys, 1 Lawrence Street, London SW3 5NB (Appeal Ref: APP/K5600/A/12/2172342), an unlisted building in the Cheyne Conservation Area (CA) which had ceased trading. The Inspector quoted para 70 of NPPF (now para 83 in revised NPPF) noting that community facilities includes public houses, and found it is clear that, before it closed, the Cross Keys contributed to meeting the needs of the local community through provision of facilities and as a place of social interaction. The Inspector dismissed arguments that there were other premises to eat and drink in the vicinity. The appellants financial appraisal referring to problems in the previous 2 years were seen as a relatively brief period on the basis of which to judge [viability] after many years of trading. The Inspector concluded that the Cross Keys contributes positively to the character and appearance of the CA not only because of the building itself but because of its use. Its continued use as a public house is clearly an important part of its value and significance as a heritage asset and of its contribution to the CA. I conclude that the proposed change of use would have a materially harmful effect on the



value and significance of the Cross Keys as a heritage asset and on the character and appearance of the CA.

In January 2013 a different Inspector dismissed an appeal to change the use of The Phene Arms at 9 Phene Street, London SW3 (Appeal Ref: APP/K5600/A/12/2172028 & 2175522), an unlisted building also in the Cheyne Conservation Area. The Inspector summarised the two main issues as: harm to the character and appearance of the conservation area, and the unacceptable loss of a community facility.

In October 2012 another Inspector in dismissing an appeal to change the use of The Queens Head, 25-27 Tryon Street, London SW3 (Appeal Ref: APP/K5600/A/12/2177513) summarised the issues as: effect on the character and appearance of the Chelsea Conservation Area, and the effect of the loss of the public house on the surrounding community.

At the Drapers Arms, 44 Barnsbury Square, London N1 in dismissing the appeal the Inspector stated: the minimal alterations suggested by the appellants would do little to disguise its former use as a public house and the domestic activities likely to take place in and around the building would significantly change the character of the building and the impact it has on its surroundings. ....the reduction in activity would diminish the importance of the building as a focal point in the area.

At the Huntingdon Arms, 115 Hemingford Road, London N1 the Inspector stated: conversion of the premises to residential would, in my opinion, result in a significant change in the character of use. Not only would there be a reduced level of activity, but by its very nature the use would be more private and restrained. I find therefore that the importance of the building as a focal point within the area would diminish. I believe that such a change would detract from the character of the immediate area and from the wider Conservation Area.

At Newmarket in 2009 the Inspector said The Plumbers Arms is a pivotal building in the Conservation Area both in terms of its use as a public house as well as in its location at ....the road intersection. Both the history of its use and its continued use as a pub I consider to be important factors in preserving the character and appearance of the Conservation Area....

In a Croydon appeal the Inspector said: A residential conversion would fundamentally alter a significant aspect of the character of the building; it would no longer be a publically accessible social focus and the loss of this focus would also affect the character of the conservation area

Harm to Haddenhams sustainability as a strategic settlement

16. The draft VALP designates Haddenham as a strategic settlement with 50% growth by around 1000 homes. This represents an increase in population from about 4,500 to around 7,000. All but one of the 3 major allocated developments are already under construction, so will finish in the near future; the third has been submitted for planning permission.

17. The strategic settlement designation in turn arose from a Settlement Hierarchy Assessment. One of the assessment criteria used in the audit methodology was facilities and services, which were further split between key and non-key. Pubs were classified as a key facility. At the time of the assessment, Haddenham had 5 pubs, of which 3 were at Church End. Today just 2 of those

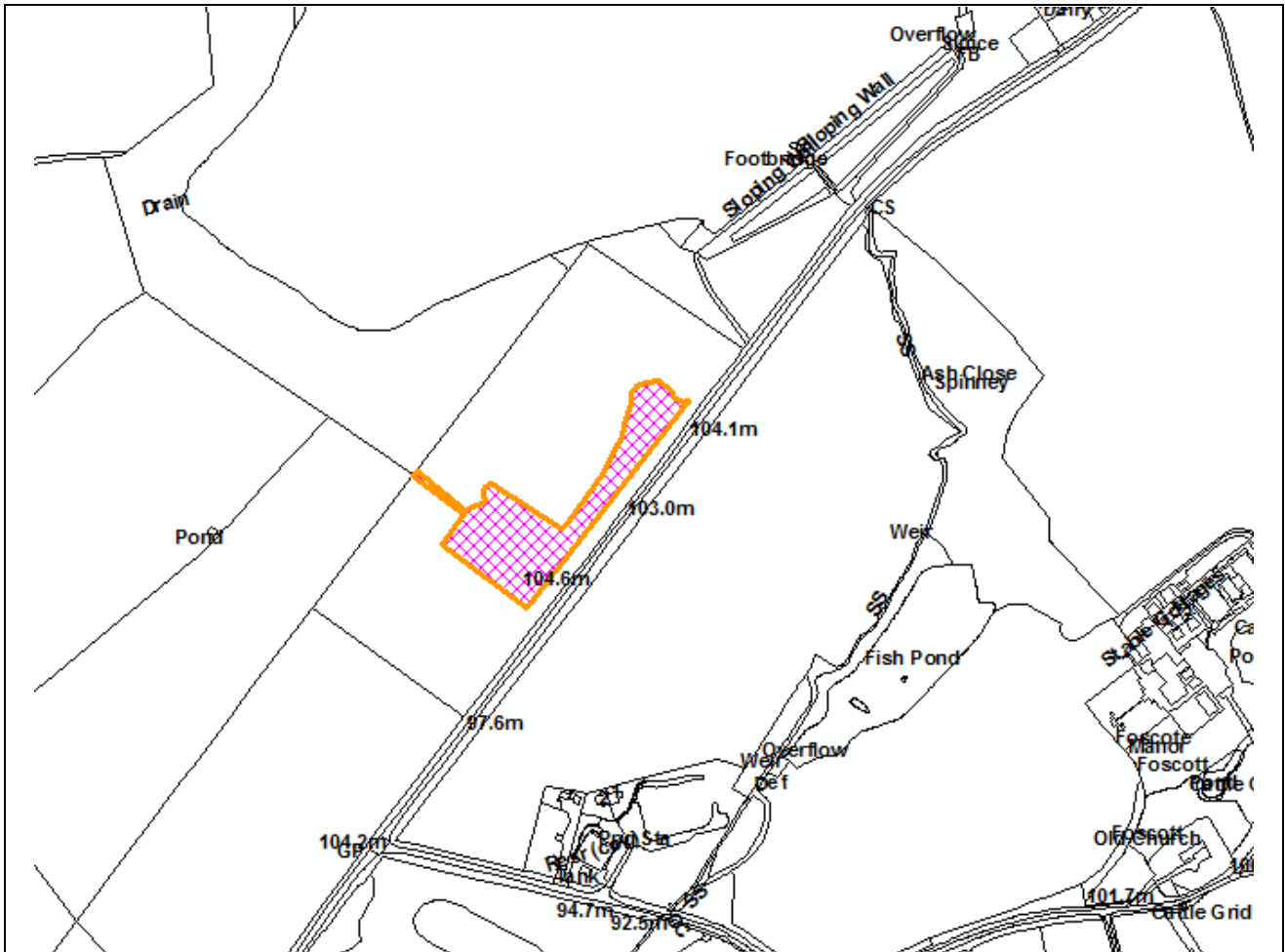
pubs are still open, and none at Church End. One of the major development sites (Aston Road) is within easy walking distance of the Green Dragon. This should be a significant marketing opportunity, particularly taken together with the pubs historic association and prime location. Approving the change of use at this time will close a key facility and thereby harm this communitys ability to meet the challenge of welcoming and absorbing so much growth in such a relatively short period of time.

Conclusion: Contrary to Draft VALP and Neighbourhood Plan

18. This proposal is contrary to NPPF, to the emerging draft VALP, and to the Neighbourhood Plan by virtue of all the above issues: the viability assessment, the loss of a valued facility, significant heritage harm to the Conservation Area, and harm to Haddenhams sustainability as a strategic settlement. The application should be refused.

The PC would like the opportunity to make representation should this proposal go to Committee or to appeal.

19/02912/APP



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| REFERENCE NO   | PARISH/WARD  | DATE RECEIVED |
|--|--|---------------|
| 19/02912/APP   | MAIDS MORETON<br>The Local Member(s) for this<br>area is/are: -<br><br>Councillor Warren Whyte | 06/08/19      |
| RELOCATION OF A FARM<br>BUSINESS TO INCLUDE<br>TEMPORARY RESIDENTIAL<br>ACCOMMODATION FOR A<br>PERIOD OF FIVE YEARS AND<br>CONSTRUCTION OF<br>AGRICULTURAL BUILDINGS<br>FOSCOTE HILL FARM<br>FOSCOTE ROAD<br>MK18 1QQ<br>MR TIM BUCKINGHAM<br><br>STREET ATLAS PAGE NO. 42 |  |               |

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

- a) The planning policy position and the approach to be taken in the determination of the application.
- b) Whether, having regard to national and local policies that seek to resist isolated new dwellings in the countryside, there is an essential need for a rural worker's dwelling at the site.
- c) Whether the proposal would constitute sustainable form of development having regard to:
  - Delivering a sufficient supply of homes
  - Building a strong competitive economy
  - Promoting healthy and safe communities
  - Promoting sustainable transport
  - Supporting high quality communications
  - Making effective use of land
  - Achieving well designed places
  - Meeting the challenge of climate change and flooding
  - Conserving and enhancing the natural environment
  - Conserving and enhancing the historic environment
- d) Impact on residential amenities

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

## **2.0 CONCLUSION AND RECOMMENDATION**

- 2.1 The application has been evaluated against the Development Plan and the National Planning Policy Framework (NPPF). Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking this 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 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 proposed development does not fully address all strands of sustainable development, as the proposed development, including a temporary dwelling, in an isolated location is not sustainable in terms of transport. However, in this instance, the principle of development is considered acceptable, as it is accepted that the countryside is an appropriate location for agricultural activity, and it has been demonstrated that there is a need an essential need for a full time rural worker on site to maintain the successful operation of the business in compliance with paragraph 79 of the NPPF. Therefore, the harm associated with locating a home, albeit for a temporary but reasonably lengthy period, in an unsustainable location is sufficiently offset or justified in this case.
- 2.3 It is accepted that there would be economic benefits in terms of the construction of the development itself and those associated with the economic activity of the agricultural business to be established on the site to which limited positive weight should be attached. As a temporary dwelling, the development would not make a permanent contribution to housing land supply.
- 2.4 It is acknowledged that there would be limited level of landscape harm following the development of this site which should therefore be attributed limited negative weight in the planning balance.
- 2.5 Compliance with some of the other planning objectives of the NPPF have been demonstrated in terms of the highway impact and parking provision, promoting healthy communities, the design of the development, agricultural land, biodiversity, trees and hedgerows, flood risk, historic environment, and on residential amenity. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm to which weight should be attributed neutrally.
- 2.6 Weighing all the relevant factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the AVDLP and the supplementary planning documents and guidance, in applying paragraph 11 of the NPPF, it is considered that the adverse impacts would not significantly or demonstrably outweigh the benefits of the proposal.
- 2.7 The representations received have argued that the tilted balance in paragraph 11 should not be applied. The proposal would accord with the identified AVDLP policies and the emerging VALP policies. Further consideration has been afforded to the NPPF to identify whether there are any material considerations that would lead to a departure from the development plan and the proposal has been considered to be consistent with the NPPF. Therefore, it is recommended that, in the alternative Officers consider that even if the tilted balance is not applied, permission should be granted.

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

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

**Reason:** To comply RE03 -To comply with the requirements of Section 91 (1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The temporary rural worker's dwelling hereby permitted shall be removed and the land reinstated to its former condition (in accordance with a scheme which shall have first been approved in writing by the Local Planning Authority) on or before 31/12/2023.

**Reason:** Reason: To enable the Local Planning Authority to review the position in the light of circumstances prevailing at the end of the period and to comply with policy GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

3. The occupation of the temporary rural worker's dwelling shall be limited to a person solely or mainly working, or last working in the locality in agriculture, or in forestry (as defined in Section 336 of the Town and Country Planning Act 1990), or forestry, or a widow or widower of such a person and to any resident dependants.

**Reason:** The site is within an area where permission for a dwelling unconnected with or not required in the essential interests of agriculture or forestry would not normally be permitted and because permission is granted having regard to the special circumstances of the case and to comply with National Planning Policy Framework.

4. The mobile home hereby permitted shall not be occupied until the livestock building shown on drawing no. 119590-011C received on 11.10.2019 has been erected and made available for use by livestock.

**Reason:** The site is within an area where permission for a dwelling unconnected with or not required in the essential interests of agriculture or forestry would not normally be permitted and because permission is granted having regard to the special circumstances of the case and to comply with National Planning Policy Framework.

5. The development shall be implemented in accordance with the with the agreed mitigation/compensation/enhancement plan from CSA dated July 2019. Any variation to the approved plan shall be agreed in writing with the local planning authority before such change is made.

**Reason:** To comply with the requirements of the National Planning Policy Framework, ODPM 05/2006, The Conservation of Habitats and Species Regulations 2017 (as amended), and the Wildlife and Countryside Act 1981 (as amended).

6. No other part of the development shall be occupied until the new means of access has been sited and laid out in general accordance with the approved drawing and

constructed in accordance with Buckinghamshire County Council's guide note "Agricultural Vehicular Access Within Highway Limits" 2013.

**Reason:** In order to minimise danger, obstruction and inconvenience to users of the highway and of the development and to comply with the guidance contained in the NPPF.

7. No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 151 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

**Reason:** To provide adequate intervisibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access and to comply with the guidance contained in the NPPF.

8. No part of the development shall be occupied until an area has been laid out within the site for vehicles associated with the residential unit to park and turn in accordance with the approved plans and that area shall not thereafter be used for any other purpose.

**Reason:** To enable vehicles to draw off and turn clear of the highway thereby avoiding the need to reverse onto the public highway and to comply with the guidance contained in the NPPF.

9. Prior to the first use of the northern most access as shown on drawing no. 119590-013A hereby approved, details demonstrating how the southern access as shown on drawing no. 119590-015, shall be stopped up, prohibiting vehicular access, shall be submitted to and approved in writing by the Local Planning Authority. The approved access shall be retained in perpetuity.

**Reason:** In order to minimise danger, obstruction and inconvenience to the users of the highway and of the development and to accord with the NPPF.

10. The materials to be used in the development shall be as indicated on the approved plans and application form.

**Reason:** For the avoidance of doubt and to ensure a satisfactory form of development and to comply with policy GP8 and GP35 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

11. No development shall take place on the livestock and storage buildings hereby permitted other than groundworks and foundations until full details of landscape works including details of trees, hedges and shrubs within and adjacent to the site to be retained, have been submitted to and approved in writing by the Local Planning Authority. These details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out as approved within the first

planting season following the first occupation of the development or the completion of the development whichever is the sooner.

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

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

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

13. No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.

**Reason:** In the interests of the visual amenity and/or highway safety and to comply with the National Planning Policy Framework.

#### **Informatives:**

1. The applicant is advised that the off site works will need to be constructed under a Section 184 of the Highways Act legal agreement. This Small Works Agreement must be obtained from the Highway Authority before any works are carried out on any footway, carriageway, verge or other land forming part of the highway. A minimum period of 3 weeks is required to process the agreement following the receipt by the Highway Authority of a written request. Please contact Development Management at the following address for information:-

Highways Development Management

6th Floor, New County Offices

Walton Street, Aylesbury,

Buckinghamshire

HP201UY

Telephone 01296 382416 or Email: [dm@buckscc.gov.uk](mailto:dm@buckscc.gov.uk)

2. It is an offence under S151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.
3. No vehicles associated with the building operations on the development site shall be



parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under S137 of the Highways Act 1980.

4. The AVDC Ecologist can be contacted at [ecology@aylesburyvaledc.gov.uk](mailto:ecology@aylesburyvaledc.gov.uk)

## 5. WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

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

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

In this case, AVDC has considered the details as submitted which were considered acceptable.

## 3.0 INTRODUCTION

- 3.1 The application needs to be determined by committee as both Maids Moreton Parish Council and Foscoote Parish Meeting have raised material planning objections. Only Foscoote Parish Meeting have confirmed that they will be willing to speak at the Committee meeting.
- 3.2 Maids Moreton Parish Council have objected on the grounds that the site is very close to Foscoote Reservoir which is a SSSI and this could be affected by the proposal, including from slurry. They have also stated that the proposed buildings will be visually intrusive.
- 3.3 Foscoote Parish Meeting objected on a number of grounds, including landscape impact, size of the mobile home, the proposed access, lack of an agricultural appraisal to review, impact on a large housing site to the west and lack of slurry waste disposal. They also requested that any permission be made personal to the applicant.
- 3.4 This report was originally intended to be taken to the Development Management Committee on 29 November 2019. However, on 21 November 2019, a Joint Counsel Opinion was received from Maids Moreton Parish Council, claiming that there are a number of serious flaws and defects in the Officer's Report, on the following (summarised) grounds:
- The blanket approach to applying the tilted balance in NPPF para 11(d) to all housing developments is wrong. As the proposed development would not make any addition to the housing supply, the AVDLP housing policies are not the most important for determining this application. There is therefore no lawful basis for applying the tilted balance.
  - Para. 48 of the NPPF states that LPAs may give weight to relevant policies in emerging plans. The officer's report affords weight to various VALP policies but does not explain the basis for affording a significantly increased weight to these policies or explain the difference in weighting given to particular policies.

- It is illogical and irrational to conclude that there is an 'essential' need for a worker to be permanently accommodated at the site. National policy does not support short term permissions for temporary accommodation. The officer's report relies on the same limited evidence in order to substantiate compliance with H3 Rural Workers dwellings.
  - It is procedurally unfair for the entirety of the financial information supplied in the planning statement to be redacted.
  - The officer's report states that saved policy RA2 is relevant to the Proposed Development, but then fails to consider that policy any further or the issues it raises.
  - The officer's report is wrong to conclude that the Proposed Development would accord with policy E9.
  - The officer's report makes an incorrect assessment of highway impacts, fails to consider the impact on field patterns, fails to consider the impact of artificial lighting and reaches an unjustifiable conclusion on the natural environment, and
  - There are flaws and omissions in the suggested planning conditions, for example a general agricultural occupancy condition is not appropriate and the report fails to remove permitted development rights.
- 3.5 Due to the breadth of the material covered in the Joint Opinion, it was considered that it would have been too disjointed and rushed to address to address the issues raised in a corrigendum. It was therefore removed from the Committee.
- 3.6 The planning matters raised prior to the Joint Opinion are all dealt with in the report. In summary response, Natural England were consulted and raised no concerns with regard to impacts on the SSSI. The AVDC Landscape Officer has raised no objections on the landscape impacts of the proposal. The County Highways Officer has not objected to the proposed access. The Rural Consultant is satisfied that the applicant's agricultural appraisal demonstrates there is a functional need for the proposal. It is considered that there would be no material impact on any neighbours, including the future occupiers of the 170 dwelling development for which a resolution has been taken to support the application subject to the completion of a Section 106 agreement on land to the south west of the site. It is not considered that a personal permission would be justifiable.
- 3.7 Most of the matters raised in the Joint Opinion challenge the planning judgements, for example whether there is an essential need for an on-site worker or whether highways impacts have been correctly assessed. Again, these are covered in the report. With regard to the procedural and legal matters, it has been claimed that the Council is applying NPPF paragraph 11 (d) incorrectly (as a blanket approach) and that the so called 'tilted balance' should not have been applied as housing policies are not the most important for determining the application. Whilst it is accepted that the temporary dwelling would not permanently increase the housing supply in the district, it is nevertheless still considered that the tilted balance is applicable, because housing policies are still relevant to temporary dwellings.
- 3.8 It is claimed that it is procedurally unfair for the entirety of the financial information supplied in the planning statement to be redacted. The financial information provided in the applicant's Agricultural Appraisal (dated May 2019) and also given in the Acorus letter dated 5 November has been redacted as this is business sensitive and commercially

confidential. It is not appropriate for all information to be released into the public domain and not disclosing such financial data is normal and acceptable local government practice. The original Acorus report was not published as this was a draft version and was still under discussion. It is common practice not to publish draft documents. However, in the spirit of openness and transparency, a redacted version of this (removing sensitive financial details) could be made publically available.

- 3.9 It is, however, accepted that more justification should have been given in the report to the basis for the weighting given to VALP policies. The report has therefore been updated to provide additional information on the basis of the weighting given. It is also acknowledged that due to an administrative error, an older version of the Overview Report was initially uploaded to the Council's website alongside the report although this was subsequently replaced with the correct (November 2019) version.
- 3.10 In conclusion, officers do not accept that the officer's report that was due to be taken to the Development Management Committee on 29 November 2019 contained serious flaws and legal defects as claimed in the Joint Opinion. Nevertheless, the opportunity has been taken to address some of the matters raised, expand on reasoning and to respond to these in this updated report.

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

- 4.1 The site consists of a parcel of land of 0.86 hectares (ha) in size, located on the North West side of Foscoote Road, in a countryside farmland area about 600m to the North East of Maids Moreton. It comprises part of Foscoote Hill Farm, which consists of five open fields surrounded by hedges with a total area of about 18ha. To the north east is Foxcoote Reservoir, which is a Site of Special Scientific Interest (SSSI). There are fields to the west, south and east. The nearest dwellings are Maids Moreton House and Gardeners Cottage about 500m to the west, Foscoote Manor and Stable Cottages about 400m to the south east and Foxmere Farm, the Old Dairy and Foscoote Wood Farm about 420m to the north east. Currently the landholding is used for agricultural purposes. The existing access into the site is from Foscoote Road in the north east part of the application site. The site slopes gently downward from the north towards the south west.

#### **5.0 PROPOSAL**

- 5.1 The application seeks full planning permission for a temporary mobile home for a period of five years and construction of agricultural buildings comprising of a livestock building, storage building, twenty mobile calf huts, hardstanding and access track.
- 5.2 The temporary mobile home would measure approximately 13.8m in length, 6.8m in width with a height of about 3.4m and have a pitched roof. It would comprise two bedrooms, study, bathroom, hall and open plan living/kitchen and dining area. It would have a log cabin appearance with a verandah measuring 2.4m by 6.8m in size. The mobile home would have three windows and a door on the front elevation, three windows on the rear elevation and a window and sliding doors on the side elevation where the verandah is situated. It would be sited to the south east of the main rectangular section of the site.
- 5.3 The 20 calf huts would each measure approximately 2.7m in width, 2.2m in depth with a height of about 1.8m. They would be mobile and constructed of laminated plastic. These would be arranged in two rows of 10 and located to the north west of the site.

- 5.4 The livestock building would measure approximately 25m in width, 18m in length with an eaves height of about 4m and a total height to the ridge of about 7.3m. It would be a 3 bay building with olive green coated metal sheeting with 10 rooflights on each side roofslope. It would have 2.4m high concrete panels with Yorkshire cladding above. The northern elevation would have an open-air livestock handling and loading area with a covered central feed passage. This would be located to the west of the site.
- 5.5 The storage building would measure approximately 30m in length, 10m in width, 5m at eaves height and a total height of 6.3m. It would have 5 bays and would be constructed of Yorkshire boarding and olive green coated metal sheeting. It also have five rooflights on each of the north and south roofslope elevations with a roller shutter door at the front (south) elevation, 2.4m high concrete panels along three sides and an open end on its east elevation. This would be used for the storage of hay/straw, cattle feed for livestock bedding and agricultural equipment and machinery. This would be located to the north east of the site.
- 5.6 The access track would be constructed of permeable hardcore and the main yard area would be concrete hardstanding. It would be about 130m in length, with the main section running parallel to Foscoote Road before turning by 90 degrees and exiting onto the road at the north eastern end of the site.
- 5.7 A number of documents have accompanied this outline application including a Planning Statement, an Agricultural Appraisal; Landscape and Visual Impact Assessment; Preliminary Ecological Appraisal and Sustainable Drainage Strategy.

## **6.0 RELEVANT PLANNING HISTORY**

- 6.1 No relevant history for this site.

## **7.0 PARISH COUNCILS COMMENTS**

- 7.1 Maids Moreton Parish Council objects to this application on a number of grounds-

- The site is very close to Foscoote reservoir. The supporting information provided is explicit on surface water drainage but makes no mention of how the slurry will be dealt with but there will be a very substantial amount to be disposed of, including mitigation of flooding risk from exceptional rainfall intensity of any slurry pond. The site is less than 100m from the reservoir edge and the geological information in the documentation indicates that sub-surface drainage could well percolate to the reservoir. The site level is not far above the maximum water level of the reservoir;
- The Foscoote SSSI, an important bird reserve, is also very close by and there is considerable danger of disturbance from intensive farming activities;
- The proposed buildings will be severely visually intrusive into what is currently open, dark countryside. The livestock building is 19 by 23 metres with a height of 8.35 metres. This is in addition to a very large wooden house and the calf pens. The proposed accommodation looks to be close to a permanent dwelling. The development would also result in light pollution; and
- The applicant has asked for an initial 5-year approval to accommodate the start-up period rather than the normal 3-years. There is no information available on the

business plan for the enterprise which is necessary to assess the justification for this time extension.

On the 14<sup>th</sup> November Maids Moreton Parish Council submitted further comments:

- Maids Moreton Parish Council would prefer to see a different access point from that proposed.
- There is an old gated access point close to where the drainage line crosses Foscoote Rd and there is scope for a new access point giving a direct connection to the area where building is planned. The proposal is new build into open country and notwithstanding the potential loss of a small length of boundary trees, this would be less damaging overall in respect of visual impact, traffic, noise and disturbance.
- Maids Moreton Parish Council would like to have a clear indication of the number of vehicle movements and the predominant type of vehicle that will be used to transport livestock and materials to and from the site at full capacity. Maids Moreton Parish Council do not consider it is appropriate to increase significantly traffic movements along Foscoote Road, particularly with large vehicles.
- It would be appropriate for any approval to be specific to this use and for the temporary accommodation in a mobile home to be tied to the business proposed at the site.
- The Applicant has proposed a 5-year temporary use, when usually a period of only 3 years is imposed. A 3 year period should be imposed on any permission granted.
- Maids Moreton Parish Council like further confirmation that the spreading of waste animal bedding to rot down will not create a nuisance from smells or an increased fly population.
- In respect of liquid run-off, noting that the drain that crosses Foscoote Rd subsequently joins the overflow from Foscoote reservoir and to the River Ouse, Maids Moreton would like some monitoring of nitrate levels in this watercourse.

7.2 Foscoote Parish Meeting objects to this application, with grounds summarised as follows:

- The proposals are immediately to the west of a large housing allocation therefore the appropriateness of this agricultural development needs to be considered;
- The proposals will have an adverse impact on the landscape of the area and on residential properties and the scale of the proposed buildings are inappropriate for the location;
- The mobile home is too large and is likely to be inhabited as a 3 bed home;
- The application relies on emerging policies that are not yet adopted;
- The visibility splays shown are not accurately plotted on a highways drawing and therefore cannot be relied upon;
- No copy of an agricultural appraisal can be reviewed to understand whether the application meets the criteria of emerging policy H3;
- There is no agricultural tie proposed in the suggested conditions, this should be rectified; and

- The application does not address slurry waste disposal from the calf huts.

On 1 November 2019, following a site meeting with the applicant, Foscombe Parish Meeting submitted further comments, summarised as follows:

- Access to the site is the furthest access point from the proposed yard. There is a second existing access to the site almost directly next to the yard at the southern end of the plot with improved visibility splays. We urge that the site entrance be relocated to the existing entrance at the southern end of the site.
- The Applicant has proposed a 5-year temporary use, when usually a period of only 3 years is imposed. A 3 year period should be imposed on any permission granted.
- The permission should be made personal to the Applicant which will ensure the proposals are only proceeded with if they are necessary as stated for the family business, and not for any speculative use. An agricultural tie condition should be imposed to ensure the inhabitant of the mobile home is the rural worker required for the business on the site.
- If the Council are minded to grant planning permission, an additional condition to remove permitted development rights should also be imposed, to ensure the extent of development cannot increase from that approved. This will avoid intensification of the rural site through extensions to any approved buildings, which are already considered inappropriately large in scale.

## **8.0 CONSULTATION RESPONSES**

- 8.1 Environmental Health: No environmental health comments in relation to this application.
- 8.2 Buckingham And River Ouzel Drainage Board has no comment to make.
- 8.3 AVDC Ecologist: No objection subject to condition.
- 8.4 Buckinghamshire County Council (Bucks CC) SuDS – the LLFA will not be providing formal comments.
- 8.5 Bucks CC Highways: No objection subject to conditions.
- 8.6 AVDC Landscape: No objection to this application.
- 8.7 AVDC Economic Development welcomes this application in providing a new business venture.
- 8.8 AVDC Tree Officer no objections subject to condition.
- 8.9 Berkshire Buckinghamshire Oxfordshire Wild Life Trust (BBOWT) objects to this application on the grounds that it may have an adverse impact on Foscombe Reservoir and Woods Site of Special Scientific Interest (SSSI). A further comment was submitted on 14.10.19 following clarification on cattle numbers. The increase is significant and would be expected to increase risk of runoff into Foxcote Reservoir and Woods SSSI. We suggest that Natural England and Environment Agency are consulted.
- 8.10 Natural England: No objection to this application.
- 8.11 ACORUS (agricultural consultant) stated on 19.9.19 that whilst the proposal would have marginal 'functional need' for on site residential accommodation, the projected annual trading budget for the business overstates the possible financial returns of calf enterprise.

Consequently, there are concerns regarding the viability and sustainability of the proposed agricultural business. Following submission of further information from applicant, ACORUS submitted (on 5.11.19) an update comment. This stated that the proposed figures (i.e. gross margin) for the calf rearing enterprise are now more realistic. It concluded that the revised appraisal as presented by the applicant/agent presents a marginal case for temporary residential accommodation at the site (the usual practice being 3 years). The case for a permanent dwelling in the future will be dependent upon the business being able to develop as planned and exceed the financial projections.

## **9.0 REPRESENTATIONS**

- 9.1 One representation received objecting on the grounds that the site is close to Foscoote Reservoir and would have a negative impact on protected species. The objector added that the reservoir is noted for its bird life and bats including Pipistrelle and Daubenton's. Artificial lighting negatively impacts some bat species and Daubenton's is one of these.

## **10.0 EVALUATION**

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

- 10.1 The overview report appended to this report sets out the background information to the policy framework when making a decision on this application.

#### *Aylesbury Vale District Local Plan (AVDLP)*

- 10.2 A number of saved policies within the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of relevance are GP.8, GP.24, GP.35, GP.38 – GP.40, GP45 and RA.2. They all seek to ensure that development meets the three objectives of sustainable development and are otherwise consistent with the NPPF.

- 10.3 There are no saved policies in AVDLP that relate directly to built development in the countryside associated with agricultural operations. It is nevertheless the case that agriculture is the primary use over significant areas of the countryside in the District, and it is acknowledged that the erection of buildings, structures and hardstandings required in association with agricultural activities is acceptable in principle.

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

- 10.4 The overview report sets out the current position with regards to VALP. The policies to which the relevant weight needs to be considered in this case are BE2 (Design of new development), NE1 (biodiversity and geodiversity), NE4 (Landscape character and locally important landscapes), NE7 (best and most versatile agricultural land), NE8 (trees, hedgerows and woodlands), T6 (vehicle parking), S3 (settlement hierarchy and cohesive development) and BE3 (protection of the amenity of residents). Policy BE3 has been the subject of objections and the Inspector has not requested main modifications so can be regarded as resolved and this policy can be given considerable weight. Where the remainder of these policies have been the subject of objections and the Inspector requested main modifications, he has confirmed that he is satisfied they remedy the

objection so these can be given moderate weight. The weight to be given is considered in the paragraphs below.

Neighbourhood Plan

- 10.5 There is currently no neighbourhood plan in existence for Maids Moreton. A neighbourhood plan area has been established and some initial work is being undertaken which is at a very early stage and therefore no weight can be given to the neighbourhood plan.
- b) *Whether, having regard to national and local policies that seek to resist new dwellings in the countryside, there is an essential need for a rural worker's dwelling at the site***
- 10.6 Paragraph 78 of the National Planning Policy Framework (the Framework) states that: 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 adds that "Planning policies and decisions should avoid the development of new isolated homes in the countryside unless one or more of the following circumstances apply: a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside".
- 10.7 Policy H3 of VALP, which can be given moderate weight, states that a new temporary rural worker's dwelling will only be permitted if certain criteria are met. These include that there is a clearly established functional need for a full time worker to live on or near the holding, the future economic viability of the enterprise can be demonstrated, the need cannot be met by any other means and it takes the form of a caravan, wooden structure or other temporary accommodation of the minimum size to support the new rural business. The Joint Counsel Opinion claims that Policy H3 has not been fully considered in this report. However, this is incorrect. Policy H3 has been taken into account, although at this stage VALP is not part of the development plan and so it can only be given moderate weight.
- 10.8 The site is in an isolated location in the countryside, and consequently residential approval – even on a temporary basis - is supported by the NPPF only if there is an "essential need" for someone to be present on or near the site on a permanent basis. In the absence of an "essential need", the proposal cannot be considered a sustainable form of development. In order to establish that there is a genuine essential need for a dwelling to be provided to enable a worker to be permanently resident on the site, it is necessary to consider whether there is a functional need for a worker to be present at all times, and whether there is existing accommodation available that could meet the need without the need for the erection of a new dwelling. It is also necessary to consider whether the essential need is "permanent" by considering whether it is likely to persist over the long term. This requires consideration of the question of whether the business operated on the site is financially sound and likely to remain so. This includes the issue of whether the business generates sufficient profit to fund construction of a permanent dwelling as well as providing a reasonable income for the owner(s).
- 10.9 It is recognised, however, that there are circumstances in which accommodation on or near the site is required in order to enable an agricultural or other rural business enterprise to develop and expand. Consequently, it has long been national policy (and more recently guidance) to enable the growth of developing enterprises by facilitating short term permissions for temporary accommodation, normally on the basis that permission will be granted for retention of temporary accommodation for no more than three years to give the



applicant the opportunity to build up the business to a level at which it can be considered sustainable in the long term. For example, the Planning Practice Guidance for 'Housing needs of different groups' sets out the considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF. This includes, in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

- 10.10 In the Planning Statement, the applicant states that he operates his farming business from a tenanted farm known as Old Park Farm in Hillesden. The lease on the farm is due for renewal and he wishes to relocate his farming business to recently inherited land following the death of a family member. He seeks to relocate his existing cattle farming business to this land. Due to welfare reasons and good agricultural husbandry, a full-time worker needs to be on call 24 hours a day to care for livestock to check for illness and injuries. Therefore, it is argued that a rural worker's dwelling is required on site for a period of five years.
- 10.11 The applicant submitted an independent agricultural appraisal in support of the application in order to seek to demonstrate that the functional and financial tests in paragraph 79 of the NPPF are satisfied. The Council then requested that agricultural consultants ACORUS carry out a Paragraph 79 assessment of the proposed agricultural business. This concluded that the proposed buildings, and the use of the livestock building and calf huts for a calf rearing enterprise (i.e. rearing calves up to 4 months of age) would have marginal 'functional need' for on site residential accommodation and that the projected annual trading budget for the business overstates the possible financial returns of calf enterprise. Consequently, there are concerns regarding the viability and sustainability of the proposed agricultural business. The buildings are appropriate for the proposed agricultural business. However, ACORUS concluded that the calf rearing enterprise would not meet the requirements to justify on site residential accommodation and the 'essential need' as per paragraph 79 of NPPF as a consequence of the financial projections of the business.
- 10.12 On 4th November 2019, the applicant submitted a revised appraisal to address the concerns from ACORUS. ACORUS then responded to this revised appraisal, stating that the proposed figures (i.e. gross margin) for the calf rearing enterprise are more realistic. Additionally, with income from the store lamb enterprise and hay sales, the proposed range of enterprises provides a surplus for the applicant to cover for his input for operating and managing the business.
- 10.13 Based on a proposal of 195-225 calves being housed at the farm at anyone time, ACORUS consider that the proposed enterprise gives rise to a marginal case for a functional need for a key worker to be housed on site. Provided the business has a continuous throughput of calves (i.e. 780 per annum), the enterprise will amount to in excess of a full time activity. Additionally, the business will have the involvement and requirement regarding the management of the store lambs over the winter period, and the management of the grassland (primarily during the summer).
- 10.14 ACORUS added that the establishment, and success of the business, will be dependent upon the calf rearing enterprise and the continuous throughput of calves. Given the revised financial figures, the previous concern regarding the viability and sustainability of the proposed agricultural business is somewhat allayed. However, the return (projected net profit) is only marginal for the applicant, with no costs included for paid labour to assist with

the business. ACORUS concluded that the revised appraisal presents a marginal case for temporary residential accommodation at the site, the usual practice being 3 years.

- 10.15 The Joint Counsel Opinion submitted on behalf of Foscoote Parish Meeting has suggested that it is illogical and irrational to conclude that there is an essential need for a worker to be permanently accommodated at the site, when there is only a marginal case for a functional need and the projected net profit is only marginal for the applicant (without factoring in additional labour costs). However, the Council has not yet accepted that there is an essential need for a worker to be permanently accommodated at the site.
- 10.16 The applicant has sought a 5 year permission, to account for the time associated with construction of the proposals before the business can become fully functional. However, the usual practice is to grant a 3 year permission. The case for a permanent dwelling in the future will be dependent upon the business being able to develop as planned and achieve or exceed the financial projections so that the business is fully sustainable at the end of the three year period.
- 10.17 ACORUS stated that the case for a key worker to be housed on site is based on a proposal for 195-225 calves being housed at the farm at any one time. Therefore, to ensure that the temporary mobile home element of the scheme is not implemented in isolation, a condition will be imposed to ensure that the mobile home is not occupied until the livestock building is erected and in use.
- 10.18 Foscoote Parish Meeting requested that any permission should be made personal to the Applicant to ensure the proposals are only proceeded with if they are necessary as stated for the family business, and not for any speculative use. They also requested that an agricultural tie condition should be imposed to ensure the inhabitant of the mobile home is the rural worker required for the business on the site. The Joint Counsel Opinion also suggests that a general agricultural occupancy condition is not appropriate in this case. However, it is not considered that these would be reasonable conditions to impose because agricultural development in a countryside location is not unacceptable in principle, and there would be no justification for a requirement that the agricultural business in this case is operated by the applicant rather than any other individual: the impact of the development would not vary depending on the identity of the operator and it is the essential needs of the business that is being assessed and subsequently controlled.
- 10.19 Foscoote Parish Meeting also requested that a condition be imposed removing permitted development rights. However, it is also not considered to be justifiable or necessary to impose such a condition. It is noted that whilst VALP policy H3 requires such a condition, this would only apply in the case of permanent rural workers' dwellings and not temporary dwellings. In any case, this policy only has moderate weight at present.
- 10.20 Consequently, the development would accord with one of the special circumstances listed in paragraph 79 of the Framework, albeit for a temporary period at this stage. The guidance in paragraph 79 of the NPPF is therefore complied with. As such, it is considered that a justification for the development has been demonstrated in this case and therefore the principle of development is accepted in this case.

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

- 10.21 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 7 to 211 of the Framework. 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.
- 10.22 The NPPF comprises of a number of principles which says that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and seek to secure high quality design. In delivering sustainable development, the NPPF has a section on conserving and enhancing the natural environment and encourages the effective use of land by reusing land that has been previously developed (brownfield land) (paragraph 118).

### **Sustainable location**

- 10.23 Policy S1 of VALP, which has considerable weight, seeks to ensure that development is located in the most sustainable locations. Policy S2 of VALP, which has moderate weight, states that the scale and distribution of development should accord with the settlement hierarchy as set out in Table 2. It adds that other than for specific proposals and allocations, new development in the countryside should be avoided, especially where it would compromise the character of the countryside between settlements and result in a negative impact on the identity of neighbouring settlements, leading to their coalescence. The site is located about 600m to the North East of Maids Moreton, which is defined as a medium village in the Settlement Hierarchy 2017 and Table 2 of VALP. It has a moderate population size and is very well connected to a large service centre (it adjoins Buckingham). It also has an hourly or more bus service and good provision of key services. As such, Maids Moreton is a moderately sustainable location for development. However, the application site is in the open countryside, in an isolated location beyond the limits of the built-up area.
- 10.1 As a consequence, the site is within open countryside. Policy RA2 of AVDLP states that new development should avoid reducing open land that contributes to the form and character of rural settlements. It adds that in considering applications, the Council will avoid extensions to built up areas that might lead to coalescence between settlements. Foscoote Parish Meeting, in their representation, stated that the proposal would reduce the open land that contributes to the form and character of the rural gap that exists to the north east of Maids Moreton. They added that it is important for this gap to be retained given the proposed housing allocation that will extend the residential edge of Maids Moreton into this gap. VALP includes a proposed allocation (MMO006) for 170 dwellings, green infrastructure and surface water drainage on a site to the north eastern edge of Maids Moreton. There has also been a resolution to grant planning application (16/00151/AOP) subject to a Section 106 agreement. However, this development would be a considerable distance (about 400m) from the application site and there would also be a landscape buffer of about 50m on the eastern side of the site. The current proposal would be agricultural in nature and modest in scale compared to the proposed allocation. It is not considered that this would conflict with the aims of RA2 or introduce any risk of coalescence between

settlements. Indeed, there would remain a considerable gap between Maids Moreton and any other settlement, including Foscoate.

- 10.2 In policy terms neither policy RA13 or RA14 are relevant as the site is neither within an existing settlement (as identified in appendix 4 of the Local Plan) nor is it immediately adjacent to an 'appendix 4' settlement). Nevertheless, it is acknowledged that agricultural businesses require a countryside location. However, in broad sustainability terms, the provision of one new dwelling in this location which falls outside the built-up area of a village is considered unsustainable in the absence of a special justification. Although the NPPF states that isolated homes in the countryside should normally be avoided, this type of development can be justified in appropriate cases where there is an essential need for a rural worker to live near their place of work. In this case, Acorus has confirmed that there is a case for temporary residential accommodation at the site and so the development would accord with one of the special circumstances listed in paragraph 79 of the Framework. It is necessary, however, to assess the proposal against all other material considerations.

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

- 10.3 Local planning authorities are charged with delivering a wide choice of high quality homes and to boost significantly the supply of housing by identifying sites for development, maintaining a supply of deliverable sites and to generally consider housing applications in the context of the presumption in favour of sustainable development. 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.
- 10.4 The Five Year Housing Land Supply Position Statement (April 2019) sets out that the Council can demonstrate 5.64 years worth of deliverable housing supply against its local housing need. The updated 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.
- 10.5 Although the proposal would contribute to the supply of housing in a rural area, it would provide just one dwelling, on a temporary basis, in a mobile home. That dwelling would also need to be subject to a rural worker occupancy condition, as the justification for it would rest on 'essential need' in connection with a rural business, which would limit possible future occupants. Until such time that this is made permanent, this would not make any addition to the District's housing supply. As such this matter is attributed neutral weight in the planning balance.

***Building a strong competitive economy***

- 10.6 The Government is committed to securing and supporting sustainable economic growth and productivity in order to create jobs and prosperity but also that this would be achieved in a sustainable way. Paragraph 80 states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt. Significant

weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

10.7 In regard to supporting a prosperous rural economy, the NPPF states, that:

*83. Planning policies and decisions should enable:*

*a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*

*b) the development and diversification of agricultural and other land-based rural businesses;*

*c) sustainable rural tourism and leisure developments which respect the character of the*

*countryside; and*

*d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

10.8 The AVDC Economic Development team has responded, supporting the application to set up a new farming enterprise at Foscoote Hill Farm.

10.9 It is considered that there would be economic benefits arising provision the provision of agricultural buildings as proposed, supported by temporary residential accommodation on this site in that the growth and development of a local agricultural business would be facilitated and in terms of the construction of the development itself, its operation and the resultant increase in population contributing to the local economy. As such this matter is attributed limited positive weight in the planning balance.

***Promoting healthy and safe communities***

10.10 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.

10.11 Policies GP.86-88 and GP.94 of the Local Plan seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. school places, public open space, leisure facilities, etc.) and financial contributions would be required to meet the needs of the development.

10.12 The site is in a relatively isolated location, beyond easy walking distance of meeting places such as the Maids Moreton Village Hall. The location away from residential land uses indicates that the noise and smells associated with agricultural activities would not result in unreasonable loss of amenity to local residents. Although the site is set away from the built-up area, there would be potential opportunities for the future occupiers of the temporary new unit to interact with the local community. As such, this proposal would not conflict with the overall aims of paragraph 91 of the NPPF. It is considered that this issue should be accorded neutral weight in the planning balance.

### ***Promoting Sustainable Transport***

- 10.13 It is usually necessary to consider whether the proposed development is located where the need to travel will be minimised, the use of sustainable transport modes can be maximised, and that safe and suitable access can be achieved, taking account of the guidance in the NPPF. Paragraph 108 requires that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access to the site can be achieved and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 10.14 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.
- 10.15 Policy GP.24 of the AVDLP states that new development will be required to provide vehicular parking provision in accordance with the Council's SPG guidance. SPG1 'Parking Guidelines' sets car parking guidelines for development proposals and defines a maximum parking provision of two vehicle parking spaces for a two bedroom dwelling. Policy T6 of VALP can be given moderate weight and states that all development must provide an appropriate level of car parking in accordance with the standards set out in Appendix B of the plan.
- 10.16 In respect of transport sustainability, the site is a relatively isolated location beyond easy walking distance of the local services of Maids Moreton. It is also fairly remote from public transport services and is a location dependent on the private car for access. However, paragraph 84 of the NPPF acknowledges that sites to meet local business needs in rural areas may have to be found beyond existing settlements in locations not well served by public transport. Agricultural operations require a countryside location, and are inevitably heavily dependent on road transport. The proposed dwelling would only be supported in exceptional circumstances; as set out above it is considered that such circumstances do apply in this case.
- 10.17 The applicant proposes to use the existing northernmost access to the site, on the basis that the southern access, although nearest to the proposed buildings, has insufficient visibility and is also at the lowest part of the land, which affects access visibility and would make getting up the hill difficult in winter months.
- 10.18 Foscoote Parish Meeting have objected to the proposal and have stated that the site entrance should be relocated to the southern end of the site and that this has adequate visibility splays. The agent has submitted drawing no. 119590-015 showing received on 12/11/2019 demonstrates the splays of the access further south where a splay of 100m is achievable to the north and 126m is achievable to the south. Due to the positioning of the access on the lowest part of the land and the undulating nature of the road the visibility splays required by the Highways Authority cannot be achieved in either direction from the access further south.
- 10.19 In addition the agent stated in their email received on 12/11/2019 that there is insufficient visibility splays as the land from the southern access to the proposed yard is steep and navigating the track would be difficult during the winter months. Furthermore, the track required from this access would impact upon the proposed drainage swale.

- 10.20 Buckinghamshire County Council as Highways Authority has been consulted and has stated that the application site is located on Foscombe Road, which is rural in nature and subject to the national speed limit in the vicinity of the site. The site benefits from an existing field access, however this is not made up. The Highways Officer has stated that given that the site has an established use for the grazing of cattle, the proposed agricultural buildings would not be anticipated to generate a material increase in vehicle movements associated with the site. There would however be a relatively small intensification in the use of the site as a result of the residential unit which would be expected to generate in the region of 5 daily vehicle movements (two-way).
- 10.21 The Highways Officer added that the applicant has shown (on submitted drawing no. 119590-013A) that visibility splays of 2.4m x 75m can be achieved in both directions from the site access. Since then a revised drawing no 119590-01A (same drawing number) received on 12.11.2019 shows a visibility splay of 151m. The Highways Officer stated that, in accordance with current guidance contained within Manual for Streets, visibility splays of 2.4m x 151m are required to be achieved commensurate with the speed limit in place. Having undertaken a recent site visit the Highways officer is satisfied that the required visibility splays can be achieved in both directions from the proposed site access, to be secured by Condition. No highway objection is raised to the location of the proposed access.
- 10.22 With regard to the proposed access, this is 6m in width which the Highways Officer considers to be adequate to serve the development with safety and convenience. However, the application does not propose to make any alterations to the existing site access. It would be required for the current access to be constructed to the standard of an agricultural access to ensure mud and debris is not tracked onto the public highway and to allow for the safe and convenient use of the access. Any gates would also need to be set back 13m to allow an agricultural vehicle to pull clear of the highway.
- 10.23 As the northernmost access to the site has inadequate visibility, it would be necessary to include a condition to prevent both this and the southern access remaining operational and being used.
- 10.24 The Joint Counsel Opinion has claimed, in paragraphs 48 to 54, that the previous version of this report was flawed in its assessment of highways impacts, for example by not considering the increase in HGV movements. It adds that it would be irrational to conclude that the proposed development would not generate a material increase in vehicle movements. Foscombe Parish Meeting have also (subsequent to the Joint Counsel Opinion) queried the highway assessment and argued that further analysis of highways impacts needs to be undertaken and disclosed to the public. The agent has submitted a letter (dated 11.12.2019) responding to the highway points specifically. This details existing vehicle movements on the site a being 882 two way trips, which equates to 2.42 two way trips (or about 5 vehicle movements) per day. It is estimated that the proposed agricultural use of the site would generate 340 two way trips per year, an average of 2 vehicle movements per day. The Highway Authority (Bucks County Council) has also responded in light of both the Joint Counsel Opinion and the new evidence from the agent. They have stated that on the basis of this information, there would be a reduction in the number of HGVs and large agricultural vehicles entering and exiting the site.
- 10.25 With regard to the residential unit, based on the recent information from the agent, it is estimated that this would generate about 5 daily vehicle movements (two way). The

Highway Authority considers that the addition of 5 vehicle movements per day would not have a material impact on the existing operation and safety of the local highway network and would not have a severe impact in the context of paragraph 109 of the NPPF. The Highway Authority has also confirmed that the proposed access into the site, with a width of 6m, is adequate to serve the development in accordance with Manual for Streets guidance. They therefore confirm that safe and suitable access can be achieved in accordance with the aims of the NPPF.

- 10.26 With regard to parking, the Planning Statement states that two car parking spaces would be provided adjacent to the mobile home for the applicant to park their personal vehicles. A swept path analysis shows that there is adequate space within the site for an 11m rigid vehicle to manoeuvre within the site. Therefore, there is adequate space within the site to accommodate two parking spaces and manoeuvring for vehicles associated with the farm business and the residential unit. The Highways Officer therefore has no objection to the proposed development subject to conditions and informatives being included in any planning consent granted.
- 10.27 As such, it is considered that the proposals are in compliance with Policy GP.24 of the AVDLP, SPG1, policy T6 of VALP and the NPPF. Neutral weight is attributed to this matter in the planning balance.

***Supporting high quality communications***

- 10.28 Paragraph 114 of the NPPF requires LPA's to ensure that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
- 10.29 Given the nature and location of the proposed development, it is considered unlikely for there to be any adverse interference upon any nearby broadcast and electronic communications services as a result of the development. It is therefore considered that the proposal would accord with the guidance set out in the NPPF, and this factor is afforded neutral weight in the planning balance.

***Making effective use of land***

- 10.30 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.
- 10.31 Paragraph 122 of the NPPF relating to achieving appropriate densities states that in supporting development that makes efficient use of land, it should take into account the importance of the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.
- 10.32 The erection of agricultural buildings on this farm holding is intended to make more efficient use of the land and would enhance local economic activity. Consequently, the development of agricultural activity on this site is an efficient and productive use of land.



- 10.33 As a dwelling to accommodate a worker on an existing rural enterprise site, issues regarding plot densities are not considered relevant to the assessment of the application. A layout plan has been provided, and this shows a log cabin style mobile home on a modest sized plot. Therefore, the development would make an effective use of the land which is to be allocated to the dwelling, leaving the surrounding areas available for use by the rural enterprise. This factor is afforded neutral weight in the planning balance.

***Achieving well designed places***

- 10.34 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.
- 10.35 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.
- 10.36 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.
- 10.37 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.
- 10.38 Policy GP.35 of the AVDLP requires development to respect and complement the physical characteristics of the site and the surroundings, the building tradition, ordering, form and materials of the locality, the historic scale and context of the setting, the natural qualities and features of the area and the effect on important public views and skylines. Policy GP.45 is also relevant, with any new development required to provide a safe and secure environment for future occupiers of the site.

Policy BE2 of VALP can be given moderate weight and states that all new development proposals shall respect and complement the following criteria:

- a. The physical characteristics of the site and its surroundings including the scale and context of the site and its setting

- b. The local distinctiveness and vernacular character of the locality, in terms of ordering, form, proportions, architectural detailing and materials
- c. The natural qualities and features of the area, and
- d. The effect on important public views and skylines.

10.51 The proposal seeks permission for a temporary mobile home, two agricultural buildings and 20 calf huts. Policy E9 of VALP, which has moderate weight, states that new agricultural buildings will be permitted where the development is necessary for the purposes of agriculture on the site, its size is commensurate with the needs of the holding, there are no existing buildings on the unit that can be reused and the use of the building would not unreasonably harm the amenity of nearby residents. It adds that the scale, siting, design, appearance and construction of the buildings and associated hardstandings should be appropriate for the proposed use and sited close to existing buildings and designed to minimise adverse impact on landscape character, residential amenity and reflect the operational requirements of the holding.

#### The Temporary Dwelling:

10.52 The temporary dwelling would be modest in size and form with a simple, log cabin design. Although the design is not exceptional in terms of quality, it would have a traditional appearance, with timber walls and a pitched roof. As an isolated structure of domestic appearance, it would fail to make a positive contribution to its surroundings. However, it would be small and close to other buildings. It would therefore be visually contained and read in conjunction with the other buildings proposed. The residential curtilage has been restricted to a modest sized area around the dwelling. It is a wooden structure of the minimum size to support the new rural business, in accordance with Policy GP35 of the AVDLP and policy H3 (n) of the emerging VALP and NPPF guidance. As a temporary structure, it could be easily removed from the site.

#### The Agricultural Buildings

10.53 The two agricultural buildings would be relatively large in size. The livestock building would measure approximately 25m by 18m in length with a total height of 7.3m. This would be located to the west of the site. The storage building would measure approximately 30m by 10m in width with a total height of 6.3m. This would be located to the north east of the site.

10.54 Both buildings would be constructed of olive green coated metal sheeting, concrete panels with Yorkshire cladding above. In their form and design, these buildings would be appropriate to a rural location and for the proposed agricultural purpose. They would be located close to the road and as the buildings would be sited on lower lying ground, it is not considered that there would be a significant visual impact.

10.55 Overall, it is considered that the dwelling due to its siting and design would not have a harmful impact upon the rural setting and landscape character. The agricultural buildings would have an appropriate design, similar in size and appearance to other barns in the area. As such, it is considered that these would accord with Policy GP35 of the AVDLP and the emerging Policy E9 of VALP and NPPF guidance.

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

10.56 Developments will need to demonstrate resilience to climate change and support the delivery of renewable and low carbon energy.

- 10.57 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.
- 10.58 Paragraph 163 of the NPPF requires new development to consider the risk of flooding to the site and elsewhere. Policy I4 of VALP, which has moderate weight, states that
- 10.59 The site is located within Flood Zone 1 and the development would therefore be at low risk of flooding. The site is also at low risk of surface water flooding. The applicant has submitted a Sustainable Drainage Strategy that demonstrates that run-off will be restricted to greenfield run-off rate before discharging to the ditch to the south west of the proposed development. There will also be a new swale to the south west to provide attenuation in the event of a 1 in 100 year storm event. Therefore, the proposed development would be resilient to climate change and flooding and it would not increase flood risk elsewhere in accordance with NPPF. This matter should therefore be afforded neutral weight in the planning balance.

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

- 10.60 Consideration is given to 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. The following sections of the report consider the proposal in terms of impact on landscape, agricultural land, trees and hedgerows and biodiversity.
- 10.61 Section 15 of the NPPF states planning policies and decision should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 10.62 Policies GP.35 of the AVDLP and BE2 of VALP (moderate weight) are material (para 10.50 refers). Policy GP.38 states that development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible. NE4 of VALP (moderate weight) states that development must recognise the individual character and distinctiveness of particular landscape character areas set out in the Landscape Character Assessment (LCA), their sensitivity to change and contribution to a sense of place. Development should consider the characteristics of the landscape character area by meeting all of the following criteria:
- a. minimise impact on visual amenity
  - b. be located to avoid the loss of important on-site views and off-site views towards important landscape features
  - c. respect local character and distinctiveness in terms of settlement form and field pattern, topography and ecological value
  - d. Carefully consider spacing, height, scale, plot shape and size, elevations, roofline and pitch, overall colour palette, texture and boundary treatment (walls, hedges, fences and gates)

- e. minimise the impact of lighting to avoid blurring the distinction between urban and rural areas, and in areas which are intrinsically dark and to avoid light pollution to the night sky
- f. ensure that the development is not visually prominent in the landscape, and
- g. not generate an unacceptable level and/or frequency of noise in areas relatively undisturbed by noise and valued for their recreational or amenity value

### Landscape and Visual Impact

- 10.63 The site is not covered by any statutory landscape designations. However, Foxcote Reservoir and Wood SSSI is located about 60m to the north east at its closest point (to the access track) and about 130m from the proposed buildings. In the Aylesbury Vale Landscape Character Assessment (2008), the site lies within the LCA 2.5 Foxcote Valley, described as a small, secluded valley in pastoral use. In the vicinity of the reservoir, the character is more open, with small woodlands/copses and views towards Maids Moreton.
- 10.64 The application seeks to install a temporary rural worker's dwelling, a storage building, a livestock building, twenty calf huts with associated hardstanding and access track in a relatively isolated location in the countryside. However, the temporary dwelling has a single storey height and is modest in size. The two agricultural buildings would be larger in scale, up to about 8.5m in height but would be constructed of materials in muted colours that would allow them to blend into the landscape.
- 10.65 The applicant submitted a Landscape and Visual Appraisal report with the application. This states that as a result of the well-wooded area and topographical undulation of the landscape, the site is well contained with few possible views beyond the near vicinity. It concludes that the proposed scheme can be accommodated without giving rise to more than negligible adverse landscape and visual effects. Notwithstanding this, the block plan shows that there would be new native hedgerows and trees planted on the south west and north east boundaries of the site, further reducing any visual impact.
- 10.66 Maids Moreton Parish Council objected to the application, stating that the proposed buildings would be severely visually intrusive into an open dark countryside. It added that the development would cause light pollution. Foscombe Parish Meeting also objected, stating that the proposals would have an adverse impact on the landscape. However, the AVDC Landscape Officer raised no objection to the application on the grounds that there would be no significant visual impact. The plans do not suggest that there would be any floodlighting erected on the site, although there would be some modest light emitted by the temporary dwelling. It is not considered that this would create light pollution or be severely visually intrusive. For avoidance of doubt, if permitted, a condition will be attached to ensure that no floodlighting shall be installed without written approval from the Council.
- 10.67 Whilst visible from the public highway, the group of buildings, including the temporary dwelling, would be largely obscured by the row of trees/hedgerow that runs along the boundary with the road. As stated above, the other structures are considered appropriate in terms of their scale and design for their proposed purpose. As such whilst there would be some impact on the landscape, this would not be significant.
- 10.68 Consequently, from a landscape and visual impact standpoint, the erection of the dwelling would respect the landscape character of the area, consistent with policies GP35 and GP38 of AVDLP and NE4 of the emerging VALP and there would be negligible harm to the

wider landscape character. This matter should be attributed limited negative weight in the planning balance.

#### Agricultural Land

- 10.69 Paragraph 170 of the NPPF advises that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land (Grades 1, 2 and 3a) and, where significant development of agricultural land is demonstrated to be necessary, Local Planning Authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
- 10.70 Policy NE7 of VALP (moderate weight) seeks to protect the best and most versatile agricultural land for the longer term.
- 10.71 The site does comprise land that is in use for agriculture, although it is not best and most versatile land (ALC Post 1988 survey). However, a functional need has been demonstrated for a temporary farmworker's dwelling to be created on the site and given the scale of the landholding, it is not considered that the loss of this modest area of land would be significant. The proposal complies with policy NE7 of the emerging VALP. This is afforded neutral weight in the planning balance.

#### Trees and hedgerows

- 10.72 Policy GP38 of AVDLP seeks to conserve and enhance the natural environment by securing landscaping proposals, designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible. Policies GP39 and GP40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value.
- 10.73 Policy NE8 (moderate weight) of VALP seeks to ensure that development enhances and expands the District's tree and woodland resource.
- 10.74 The application form states that there are no trees or hedges on the site. The LVA submitted with the application states that new planting is proposed on the north eastern and south western boundaries of the site. The AVDC Tree Officer was consulted and raised no objection, but added that a condition should be attached to secure details of the proposed tree and hedge planting.
- 10.75 The proposal complies with development plan policies. This matter is also afforded neutral weight in the planning balance.

#### Biodiversity/Ecology

- 10.76 Paragraph 170 of the NPPF requires new development to minimise impacts on and providing net gains for biodiversity.
- 10.77 Policy NE1 (moderate weight) of VALP sets out measures to ensure that new development achieves a net gain in biodiversity.
- 10.78 The application was accompanied by a Preliminary Ecological Appraisal (dated July 2019). This noted that the site lies adjacent to the Foxcote Reservoir SSSI which is likely to be vulnerable to disturbance impacts, although given the proposed uses there would be no rise in recreational pressure at the SSSI. The study concluded that there would not be any significant construction or operation impacts on the SSSI. With regard to habitats and fauna, the PEA concluded that the site is dominated by grazed pasture of low ecological

value. Therefore, the loss of some grassland to buildings and hardstanding would not constitute a significant ecological impact. No hedgerow habitat is anticipated to be removed. There is a mature ash tree with bat roosting potential about 40m from the existing access point. Risks to reptiles are considered to be minimal.

10.79 The proposals include a number of ecological enhancements and mitigation, including a bat box, starling boxes, a little owl box on a suitable tree off site and a nest box on a suitable tree.

10.80 Maids Moreton Parish Council and Berks, Bucks, Oxon Wildlife Trust (BBOWT) raised concerns over disturbance from farm activities on the Foxcote SSSI, which is a bird reserve, including from runoff pollution from slurry. Natural England were consulted and raised no objection, adding that the proposed development would not have significant adverse effects on the SSSI. In response to the concerns raised, the applicant has provided a detailed description of the proposed drainage arrangements and impacts. In summary:

- It is proposed to attenuate the runoff from the site in a swale and discharge it at greenfield rates to a field drain/ditch located to the south west of the site.
- Roof runoff from the livestock building and the storage building would be directed via downpipes to a surface water sewer within the site.
- Runoff from the hardstandings will be collected in drains located along the south western boundary and along the north eastern face of the livestock building.
- Runoff from all roofs and hardstandings will be directed to a swale located to the south west of the livestock building.
- As there is a fairly steep fall from north to south, the swale has been located along the contour to reduce the amount of regrading required to keep it flat. However, some building up of the southern bank will be necessary to ensure the required volume is available in the swale.
- Agricultural practice will ensure the surface water runoff will not be contaminated prior to discharging to the swale and in turn to the drain/ditch and ultimately the SSSI.
- The dry bedded straw in the livestock building will be taken away from the site on higher ground (to the south) when the cattle are mucked out. The straw which is removed will be in solid form, not slurry/liquid form. There will be no slurry pond. The calf huts are mobile and the straw will be swept out and taken offsite. In addition, calves and cattle would be housed under cover. Roof run off from these areas will be directed to the onsite drainage system.
- The farmyard manure and used straw will be taken 250m to the field to the south west of the proposed livestock building, where it will be stacked on level ground and allowed to compost.
- Overland surface water flow routes from the field and the area where the stack is located is naturally towards the north east and towards the drainage ditch. Water in the drainage ditch is then directed to the south east, away from the SSSI and the reservoir. It is anticipated that most rainfall would remain on the site. However, in an extreme rainfall scenario, runoff would be directed away from the SSSI and reservoir, not towards these areas.

- No field stack or manure stack will be located within 10m of a watercourse or field drain. A 10m buffer zone would be left un-spread around the field margin to protect against nitrate pollution.
- The field nearest to Foxcote Reservoir, to the north of the proposed development, will not be used to store or spread farmyard manure.
- Foxcote Reservoir will have been constructed with an impermeable lining. As previously stated, runoff would follow the natural topography and be directed to the east, away from the reservoir. It would be extremely unlikely that runoff would flow in the direction of the reservoir or SSSI, and it would not be able to enter the reservoir due to the impermeable liner.
- The access track to the proposed development will be constructed using permeable hardcore.

10.87 The AVDC Ecologist was consulted and commented that there is no objection to this application. The survey, recommendations and enhancement measures contained in the PEA are considered to be acceptable. No further surveys are needed and no European Protected Species licence is required. The Method statement sets out how works can be carried out in a manner that reduces the impacts to flora and fauna identified on site. These will need to be applied along with the ecological enhancement measures set out in section 5.9. In doing so the applicant will be compliant with NPPF policy relating to net ecological gains and can accord with policy NE1 of the emerging VALP subject to the imposition of condition(s).

10.88 Thus overall, with suitable mitigation, the proposal would not have an adverse impact on biodiversity and there would be a net gain and it would therefore accord with the Framework in this respect. Neutral weight should be attached to this matter in the overall balance.

#### Contamination

10.89 A further consideration in the NPPF in relation to the need to conserve and enhance the natural environment is contamination, and the guidance states in paragraph 178 that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions.

10.90 Details of the applicant's proposed measures to deal with potential contamination of land and watercourses have been dealt with in paragraphs 10.82 – 10.86 above. The existing land use of the site is for agricultural purposes and therefore it is not expected that there would be any contamination present that would require remediation. On this basis it is considered that currently this matter should be afforded neutral weight in the planning balance.

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

10.91 The National Planning Policy Framework (NPPF) recognises the effect of an application on the significance of a heritage asset is a material planning consideration.

10.92 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.

- 10.93 In this instance the site is not within a Conservation Area. There are no heritage assets on this site or nearby which would be adversely affected, with the nearest heritage asset (a Grade II listed building at Foscombe Manor) over 400m away.
- 10.94 The Planning Statement states that an archaeology pre-application was submitted to Bucks County Council and this concluded that the nature of the proposed works is such that they are not likely to significantly harm to the archaeological significance of any assets. They advised they would have no objection to the proposed development and would not consider it necessary to apply a condition to safeguard archaeological interest.
- 10.95 On this basis the development would accord with the NPPF and this matter should be afforded neutral weight in the planning balance.

**d) *Impact on residential amenities***

- 10.96 The NPPF at paragraph 127 sets out guiding principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. AVDLP policy GP.8 states that permission for development will not be granted where unreasonable harm to any aspect of the amenities of nearby residents would outweigh the benefits arising from the proposal. Policy BE3 of VALP (considerable weight) seeks to protect the amenity of existing residents and achieve a satisfactory level of amenity for future residents.
- 10.97 The site is located in the open countryside with the nearest dwellings (Foscombe Manor and Stable Cottages) about 400m to the south east. Other dwellings nearby include Maids Moreton House and Gardeners Cottage (about 500m to the west) and Foxmere Farm, the Old Dairy and Foxcote Wood Farm (about 420m to the north east). Given these distances, there would be no material impact on these neighbours.
- 10.98 No objections have been received from Environmental Health in respect of this proposal.
- 10.99 Foscombe Parish Meeting objected on the grounds that the proposals are immediately to the west of a large housing allocation in the emerging Local Plan (for 170 dwellings). This relates to a proposal (16/00151/AOP) on the north eastern edge of Maids Moreton for which a resolution has been taken to support the application subject to the completion of a Section 106 agreement. This development site would be about 400m from the application site and there would also be a 50m or so landscape buffer (with vegetation) between the new dwellings and the edge of the site. Given this distance, and the landscape buffer, there would be no material impact on these future occupants (or vice versa).
- 10.100 Therefore the proposal would accord with Policy GP8 of the AVDLP and policy BE3 of the emerging VALP which requires that development should not unreasonably harm the amenity of neighbouring residents. The proposal is not considered to give rise to adverse impacts in terms of residential amenity and that the matter should be afforded neutral weight in the planning balance.



Case Officer: Bibi Motuel

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Ms Bibi Motuel  
Development Management  
Aylesbury Vale District Council  
The Gateway  
Gatehouse Road  
Aylesbury  
HP19 8FF

9th August 2019

Dear Ms. Motuel

**Re. 19/02912/APP | Relocation of a farm business to include temporary residential accommodation for a period of five years and construction of agricultural buildings | Foscote Hill Farm, Foscote Road, Maids Moreton, Buckinghamshire, MK18 1QQ**

1. Although not within our Parish, the site is closer to Foscote than it is to Maids Moreton. Therefore, we are writing to object to the above mentioned planning application. Our reasons for objection are set out below:

#### **Agricultural Use**

2. The application proposes a development comprising a storage building, livestock building, 20 calf huts and a mobile dwelling to house a temporary rural worker.
3. Aylesbury Vale District Council have an emerging Local Plan at the Proposed Submission stage. The plan contains the emerging Policy H3 'Rural workers dwellings' which requires a number of criteria to be met in order for a new temporary dwelling to be permitted. The Planning Statement states that the accompanying agricultural appraisal demonstrates that the criteria of Policy H3 parts j - o have been met, however as this appraisal is not publicly available it is impossible to comment on the compliance of the proposals with policy H3.
4. Policy H3 criteria n. states the new temporary dwelling must take the form of *'a caravan, a wooden structure, or other temporary accommodation of the minimum size required to support the proposed new rural business activity'*. It is considered that the mobile home shown on the plans is of a significant scale for the nature of the agricultural use and is not *'the minimum size required'*, as required by the policy.
5. The Planning Statement relies on emerging policies, such as policy H3 to support the proposal of a mobile home, however these are not yet adopted policies and therefore cannot be given full weight. The Council are still in the process of discussing modifications to the emerging Plan with the

Planning Inspector following the examination, and as such Proposed Modifications are yet to be published by the Council. The emerging Plan as a whole therefore has unresolved objections. There are no updated timescales for the publication of the Proposed Modifications, let alone the adoption of the Plan and its policies, therefore lesser weight should be given to the emerging policies relied upon by the Applicant.

6. Whilst the mobile home is shown to have 2 bedrooms on the plans, there is a possibility that the study might not be retained as such and instead turned into a third bedroom. It is considered a 3 bed dwelling is not necessary on the site and the Council should seek a revised plan showing a smaller mobile home, as it cannot be enforced nor monitored that the study is retained as such and therefore this should be omitted fully from the plans.
7. It is also not clear how many calves live in each calf hut, however 20 huts are shown on the proposed plans. If more than one calf lives in one hut there could be potentially 40 calves on the site, however the reports do not give any indication of proposed numbers of calves.
8. The disposal of liquid and solid waste generated by the enclosed calves has not been dealt with, as there is no mention of a slurry pond, if there will be one and where it will be located. Given the site's proximity to the reservoir and the inadequate drainage network towards Foscote, this needs consideration in any planning application.

### Highways

9. The highways visibility splay drawings are shown only on the Proposed Block Plan, there is no transport assessment or statement submitted with the application. It is not clear whether these visibility splays are accurately plotted to demonstrate that the visibility can be achieved.
10. The Proposed Block Plan appears to show that no vegetation is required to be removed and that the access remains as existing without any improvements required, however without an accurately plotted visibility splay plan this cannot be clarified.
11. The Adopted Aylesbury Vale Local Plan contains saved Policy RA.36 'Development causing traffic adversely affecting rural roads' which states *'the Council will have regard to the desirability of protecting the characteristics of the countryside from excessive traffic generation, including the need to avoid traffic increases and routing unsuited to rural roads.'*
12. Foscote Road is a very narrow lane. The proposals will result in an intensification of the use of the road, including potentially large agricultural vehicles to transport livestock entering and exiting the access, which as per the points above is not confirmed to be suitable through any technical

report or assessment. The road itself is a “failed road” and is not suitable for large agricultural vehicles and there are few passing points along the road; therefore, it is considered the proposals are contrary to Policy RA.36.

### **Adjacent use**

13. The emerging Local Plan contains a proposed housing allocation (site reference MMO006) on land to the south west for approximately 170 houses which has been granted conditional planning permission.
14. This application for an agricultural use including the housing of livestock should be considered in the context of the future adjacent housing development and the impact on the residential use, including potential visual impact, noise impact, and odour impact. It is considered that whilst the site’s surroundings are currently rural, the bringing forward of the 7.7ha housing allocation will bring the residential edge of Maids Moreton closer to the application site.
15. The Adopted Aylesbury Vale Local Plan contains saved Policy RA.2 ‘Loss of open gaps and consolidation of settlements’ which states ‘*new development in the countryside should avoid reducing open land that contributes to the form and character of rural settlements.*’ The application site is rural in character with no built development on any surrounding fields in its vicinity, and the Foscote Reservoir SSSI is immediately adjacent to the north.
16. The application proposals would reduce the open land that contributes to the form and character of the rural gap that currently exists to the north east of Maids Moreton. It is important that this gap should be retained as such, particularly given the proposed housing allocation that will extend the residential edge of Maids Moreton into this gap.
17. The SSSI to the north east includes a bird watching hide. Development of the application site to such an agricultural use including livestock and farm vehicles could cause disruption to the SSSI and its tranquil qualities, thus having a negative impact.

### **Landscape and Visual impact**

18. Section 4 of the Planning Statement illustrates in Figure 13 that the pre-application submitted by the Applicant requested advice in relation to a much smaller scheme, therefore the Council’s response is not relevant to this larger scheme which includes an intensification of development, despite the Planning Statement asserting that the application had addressed the pre-application concerns.
19. The application includes a Landscape and Visual Appraisal (LVA) which concludes that the visual effects for public vantage points and residential properties were found to be no higher than negligible adverse. The site is

screened by existing vegetation along Foscoote Road, however relies upon new planting to establish to reduce the public vantage points to neutral. Therefore until a time when new planting can establish, the application proposals will be visible.

20. There are also no photomontages within the LVA to demonstrate the potential impact of the proposals, therefore these should be requested from the Applicant.
21. The Planning Statement states that a gap in the north-western boundary is proposed to allow sufficient space for the business to expand in the future, this gap is shown on the Proposed Block Plan. Any additional development will result in even further detrimental landscape impact and would result in inappropriate over-development of the site.
22. If this application is approved, the Council should request that this gap is landscaped as per the other boundaries to ensure the development is contained and cannot be extended. The pre-application response also confirms a request from the Council to incorporate landscaping to blend the proposals into the landscape therefore this should be accommodated on all boundaries.
23. Despite the LVA concluding there will be negligible adverse impact from public vantage points, the proposed store building shown on the plans and elevations appears to be excessively large. The Planning Statement suggests the proposals complements the character of the area; however, it is contested that the scale of the store building is not in-keeping with the rural location of the site.

### **Suggested conditions**

24. The Applicant has proposed a 5-year temporary use in response to the Council's pre-application response, when usually a period of only 3 years is imposed. The Council's pre-application response specifically states that that it would only be appropriate to apply for a temporary dwelling for a limited 3-year period to allow the business to establish. Therefore, it should be queried why a 5 year temporary period has been proposed, as this seems an unnecessarily long period of time. A 3 year period should be imposed on any permission granted.
25. The Planning Statement emphasises that the proposals are necessary to relocate an existing agricultural business to protect the long-standing generational family farming history, and secure the farming business for the future. It is therefore suggested that if the application is to be approved, that the permission be made personal to the Applicant which will ensure the proposals are only proceeded with if they are necessary as stated for the family business, and not for any speculative use.

26. An agricultural tie condition should also be imposed to ensure the inhabitant of the mobile home is the rural worker required for the business on the site, as this is the justification for the mobile home as provided in the application documents.
27. If the Council are minded to grant planning permission, an additional condition to remove permitted development rights should also be imposed, to ensure the extent of development cannot increase from that approved. This will avoid intensification of the rural site through extensions to any approved buildings, which are already considered inappropriately large in scale.

### **Other matters**

28. The pre-application response (as summarised in the Planning Statement) requests that any subsequent application needs to demonstrate that the proposed buildings are suitable and proportionate to the practicable scale of the business; demonstrate a functional need for a worker; and demonstrate that the income generated by the business provides sufficient to fund construction in addition to providing a wage for the operator(s). Without having sight of the agricultural appraisal, we cannot comment on whether the requests have been satisfied and we object to the application on the ground that it has been unavailable for public scrutiny.

### **Summary**

29. In summary, we therefore object to the proposals for the following reasons:
  - The proposals are immediately to the west of a large housing allocation therefore the appropriateness of this agricultural development needs to be considered;
  - The proposals will have an adverse impact on the landscape of the area and on residential properties and the scale of the proposed buildings are inappropriate for the location;
  - The mobile home is too large and is likely to be inhabited as a 3 bed home;
  - The application relies on emerging policies that are not yet adopted;
  - The visibility splays shown are not accurately plotted on a highways drawing and therefore cannot be relied upon;
  - No copy of an agricultural appraisal can be reviewed to understand whether the application meets the criteria of emerging policy H3;
  - There is no agricultural tie proposed in the suggested conditions, this should be rectified; and
  - The application does not address slurry waste disposal from the calf huts.

If you wish to discuss this matter further please contact me.

Yours sincerely,

Rima Scott  
(Lady Scott)

Chair/Correspondent  
Foscote Parish Meeting

rima.scott@gmail.com

Dear Ms. Motuel

**Re. 19/02912/APP | Relocation of a farm business to include temporary residential accommodation for a period of five years and construction of agricultural buildings | Foscode Hill Farm, Foscode Road, Maids Moreton, Buckinghamshire, MK18 1QQ**

1. Further to the objection to this application which we submitted on 9<sup>th</sup> September 2019 we have since attended a site meeting with the applicant and his agent and would like to raise a further objection.
2. Access to the site is via an existing entrance situated at the north eastern corner of the plot. This access point is the furthest access point from the proposed yard and creates an unnecessarily long access track across agricultural land, encouraging 'creeping development' in the open countryside. It also involves using a 'failed road' to reach the site entrance.
3. There is a second existing access to the site almost directly next to the yard at the southern end of the plot. The visibility splays at this site entrance are much improved from the current proposed entrance, it avoids use of the failed road by farm vehicles, and significantly limits incursion of the access track on to open countryside.
4. To protect the appearance and character of the agricultural land, and to avoid unnecessary use of the failed country lane by farm vehicles, we object to the location of the site entrance at the north eastern end of the site, and urge the planning committee that the site entrance be relocated to the existing entrance at the southern end of the site.

**Proposed Conditions**

5. The site entrance be relocated to the existing gateway at the southern end of the plot.
6. The Applicant has proposed a 5-year temporary use in response to the Council's pre-application response, when usually a period of only 3 years is imposed. The Council's pre-application response specifically states that that it would only be appropriate to apply for a temporary dwelling for a limited 3-year period to allow the business to establish. A 3 year period should be imposed on any permission granted.
7. The Planning Statement emphasises that the proposals are necessary to relocate an existing agricultural business to protect the long-standing generational family farming history, and secure the farming business for the future. Therefore the permission should be made personal to the Applicant which will ensure the proposals are only proceeded with if they are necessary as stated for the family business, and not for any speculative use.



8. An agricultural tie condition be imposed to ensure the inhabitant of the mobile home is the rural worker required for the business on the site.
9. If the Council are minded to grant planning permission, an additional condition to remove permitted development rights should also be imposed, to ensure the extent of development cannot increase from that approved. This will avoid intensification of the rural site through extensions to any approved buildings, which are already considered inappropriately large in scale.

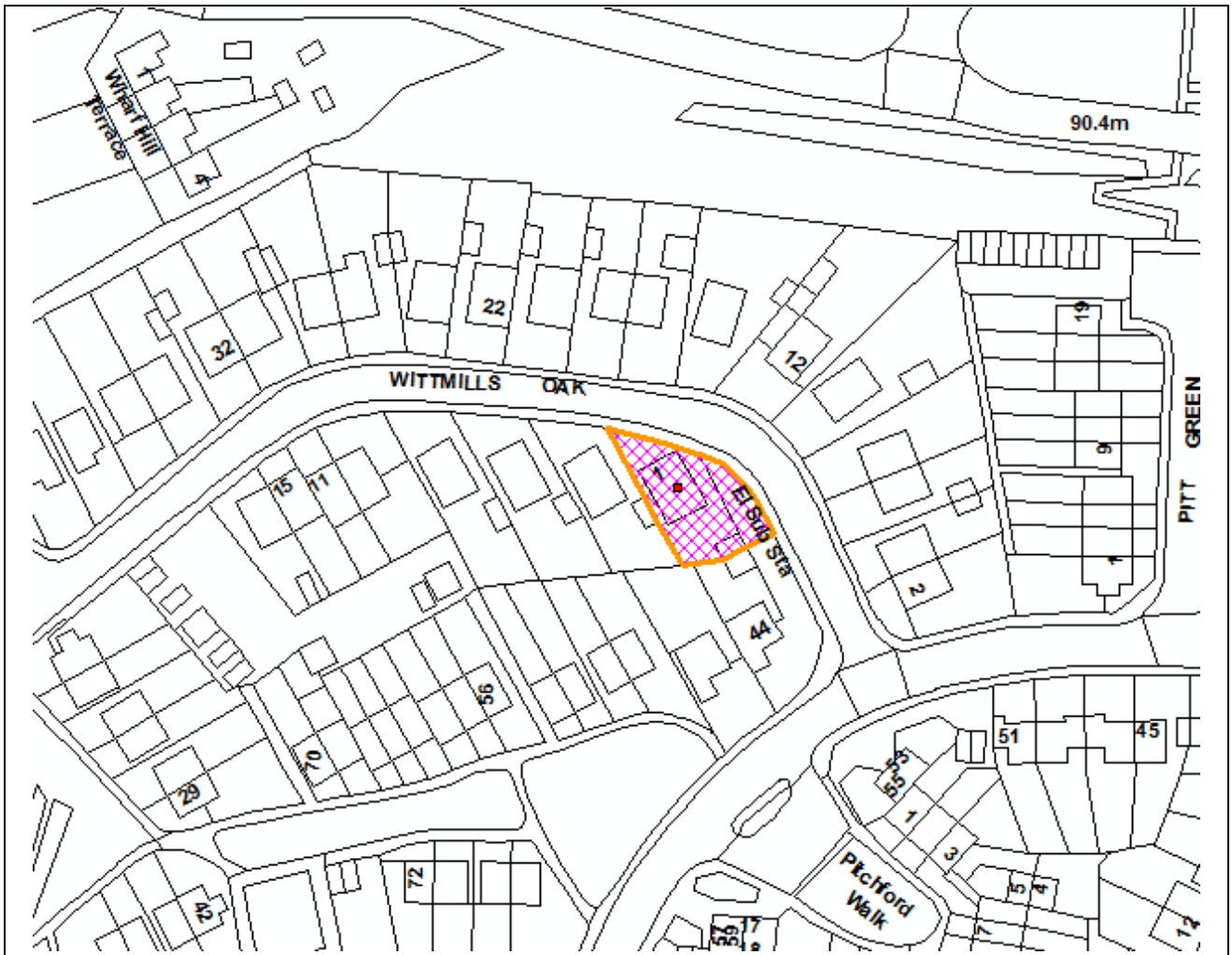
If you wish to discuss this matter further please contact me.

Yours sincerely

Foscote Parish Meeting

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19/03907/APP



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| REFERENCE NO   | PARISH/WARD   | DATE RECEIVED |
|--|---|---------------|
| 19/03907/APP   | BUCKINGHAM<br>The Local Member(s) for this area is/are: - | 30/10/19      |
| PROPOSED SINGLE STOREY FRONT EXTENSION<br>1 WITTMILLS OAK<br>MK18 7BH<br>MR & MRS FEALEY | Councillor T Mills<br><br>Councillor S Cole               |               |
| STREET ATLAS PAGE NO.  | 41  |               |

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

- a) Impact on the appearance and character of the dwellinghouse, street scene and wider area**
- b) Impact on residential amenity**
- c) Impact on highways and parking**

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

**CONCLUSION AND RECOMMENDATION**

- 1.1 The proposed single storey extension is considered to be of a scale and form that respects the appearance of the existing dwelling and would not constitute overdevelopment. The extensions would not appear overly prominent nor incongruous within the streetscene and would not impact upon the amenity of neighbouring dwellings. The proposal would therefore accord with policies, GP8, GP9, GP24 and GP35 of the AVDLP, BE2, BE3 of emerging Vale of Aylesbury Local Plan. In addition, the proposed parking arrangements would satisfy the Council's SPG Parking Guidelines and policy T6 of the VALP.
- 1.2 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 for the external surfaces, including walls, roofs, doors and windows shall be of the same colour, type and texture as those used in the existing building. Please also see note no. 5 on the back of this notice.

**Reasons:**

1. RE03 – To comply with Town and Country Planning Act and Section 51 of Planning and Compulsory Purchase Act.

2. RE11 – Satisfactory appearance

## **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 The application needs to be determined by committee as Buckingham Town Council have raised material planning objections and indicated that they wish to speak at committee.
- 2.2 Buckingham Town Council object to the scheme on the grounds of overdevelopment and the resultant detrimental impact upon the street scene. They also commented that the proposal is for a very large extension on a bungalow in a prominent position at the entrance to Wittmills Oak, a road of identical bungalows very little altered.
- 2.3 Regarding the Town Council's comments on overdevelopment, it is considered that the proposed extension respects the size of the plot and dwelling and would not overwhelm it. Adequate garden space would be retained to the rear of the property and the dwelling would not appear cramped within the setting. Furthermore, the proposed extension would maintain the amenity strip of land adjacent to the property.
- 2.4 Regarding the Town Council's comments on the impact on the street scene, it is considered that the proposed extension would not appear overly prominent, as it would be set down from the existing dwelling, and set back from the highway, with the gap maintained between the extension and the footpath, respecting the size and shape of the plot.

## **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The application site is detached bungalow, located on the south side of Wittmills Oak, within the Linden Village development on the east side of Buckingham.
- 3.2 The dwelling is constructed of brick, with sections of cladding on the side elevation, and a tiled gable roof. The property benefits from a detached garage to the south of the dwellinghouse.
- 3.3 The eastern boundary with the highway is marked by a brick wall, enclosing the garden of the application site.

3.4 Wittmills Oak is characterised by detached bungalows, similar to the application site. To the south of the site is Burleigh Piece, the main road running through the estate.

#### **4.0 PROPOSAL**

4.1 The proposal seeks planning permission for a single storey front extension.

4.2 The proposed extension measures 4m deep, 14.1m wide, with an eaves height of 2.5m and a maximum height of 4.6m. The extension would be characterised with a pitched roof and gable end fronting onto Wittmills Oak.

4.3 The proposal would be constructed of materials to match the host dwelling and includes openings in the north west, north east and south west elevations.

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

5.1 None.

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

6.1 Buckingham Town Council raised objections to the proposal stating:

6.2 'Members noted the proposal was a very large extension on a bungalow in a prominent position at the entrance to Wittmills Oak, a road of identical bungalows very little altered, and opposed on the ground of overdevelopment and detriment to the street scene.'

#### **7.0 CONSULTATION RESPONSES**

7.1 Buckingham and River Ouzel Drainage Board – The site is outside the Boards district, therefore no comments.

#### **8.0 REPRESENTATIONS**

8.1 None received.

#### **9.0 EVALUATION**

9.1 The overview report appended to this report sets out the background information to the policy framework when making a decision on this application.

9.2 The application site is covered by the made Buckingham Neighbourhood Plan. At this time, the policies in the neighbourhood plan should be attributed full weight. However, there are no specific policies relating to the proposed development within the Buckingham Neighbourhood Plan in this instance.

*Emerging policy position in Vale of Aylesbury District Local Plan:*

9.3 The overview report sets out the current position with regards to VALP. A number of policies within the VALP following the main modification consultation which started on the 5th November 2019, are now afforded some weight in the decision making process. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of particular relevance are:

T6: Vehicle Parking (moderate weight),

BE2: Design of New Development (moderate weight)

BE3: Protection of Amenity (considerable weight)

Policy BE3 has been the subject of objections and the Inspector has not requested main modifications so can be regarded as resolved and this policy can be given considerable weight. Where the remainder of these policies have been the subject of objections and the Inspector requested main modifications, he has confirmed that he is satisfied they remedy the objection so these can be given moderate weight.

**a) Impact on appearance and character of the dwellinghouse, street scene and wider area**

- 9.4 Policy GP35 of the AVDLP requires that developments respect and complement the physical characteristics of the site and surroundings; the building tradition of the locality; the scale and context of the setting; the natural qualities and features of the area and the effect on the development on important public views and skylines. Policy BE2 is consistent with the aims of GP35.
- 9.5 Policy GP9 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 Supplementary Planning Guidance on residential extensions and other policies of the development plan.
- 9.6 The NPPF sets out guiding principles including that authorities should always seek to secure high quality design.
- 9.7 The proposed scheme seeks to extend the host dwelling to the north east of the application site, which would be visible from the highway. The proposed extension would be single storey and at its highest point would be set down from the existing ridge by 0.4m, with the majority set down by 1.1m. It is therefore considered, the proposal would appear as a subservient addition to the host dwelling.
- 9.8 The proposed extension would not protrude any further forward than the existing brick wall marking the boundary, with the gap being maintained between the building line and the highway. It is therefore considered the proposed extension would not appear overly prominent or overbearing when viewed from Wittmills Oak.
- 9.9 The scale of the single storey extension is considered to respect the host dwelling and would not overwhelm it. The design, with a gable end, would respect that of the existing dwelling and the surroundings properties, and therefore would not appear at odds within the wider area. Adequate garden space would be retained within the rear garden of the property, alongside the grassed area to the north and east of the property, which would soften and mitigate any impact upon the street scene whilst maintaining a sense of space surrounding the property.
- 9.10 It is acknowledged that, as the extension would abut the garage to the rear of the site, it would result in built form along the whole eastern elevation. However, it is considered that due to the dwelling being located on a unique, corner plot, which is much wider than others along Wittmills Oak, alongside the set back nature of the extension, there would not be a detrimental impact upon the character and appearance of the streetscene as a result.
- 9.11 The proposed materials would match those of the host dwelling and therefore would integrate well with the existing and would not appear out of place within the wider area.
- 9.12 Rooflights are proposed in the north and west roofslope of the extension, and two in the west roofslope of the existing dwelling. These would be largely hidden in views from

Wittmills Oak, with only one visible in the north elevation. This rooflight would be small in scale and set into the roofslope, and therefore would not appear visually intrusive when viewed within the public realm.

- 9.13 It is also acknowledged that the proposal includes the extension of the existing patio area within the rear garden. This would not be visible from the streetscene, and would constitute permitted development and therefore, there are no concerns in regards to this.
- 9.14 In summary, the proposal is considered to be of scale and design that respects the character and appearance of the existing dwelling and does not overwhelm it. In addition, is it considered that the proposal would not appear overly prominent within the streetscene or locality in general. The proposals are therefore considered to comply with policies GP9 and GP35 of the AVDLP, policy BE2 of the emerging VALP, the Councils Design Guide on Residential Extensions and guidance within the NPPF.

**b) Impact on residential amenity**

- 9.15 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.
- 9.16 The NPPF states that authorities should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 9.17 The application site is located on a corner plot, sharing boundaries with No. 44 Burleigh Piece to the south, and No. 3 Wittmills Oak to the west.
- 9.18 The proposed extension includes openings in the north west elevation, north east elevation and south west elevation, alongside rooflights in the side roof slopes. Due to the single storey nature of the proposal, all the openings would be at ground floor level.
- 9.19 The openings in the north east and north west elevations would look out onto Wittmills Oak, and the bifold doors in the south west elevation would lead onto the rear garden of the dwelling. The rooflights would not allow views into neighbouring properties, and therefore there would be no overlooking as a result of the proposal.
- 9.20 The proposed extension would be located 8m from the west boundary, with No. 3 Wittmills Oak, and due to its single storey nature, would not have an impact on light levels reaching this property, nor appear overbearing.
- 9.21 To the south of the site is No. 44 Burleigh Piece. The proposed extension would abut the existing garage, which is located adjacent to this rear shared boundary. Due to this separation, the proposed extension would not have a detrimental impact upon the residential amenity of this dwelling.
- 9.22 Properties to the north and east are separated by the highway, and therefore no other properties would be unduly effected by the proposal.
- 9.23 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 neighbouring amenity. The proposal therefore accords with policy GP8 of the AVDLP, policy BE3 of the emerging VALP and the NPPF.



**c) Impact on highways and parking**

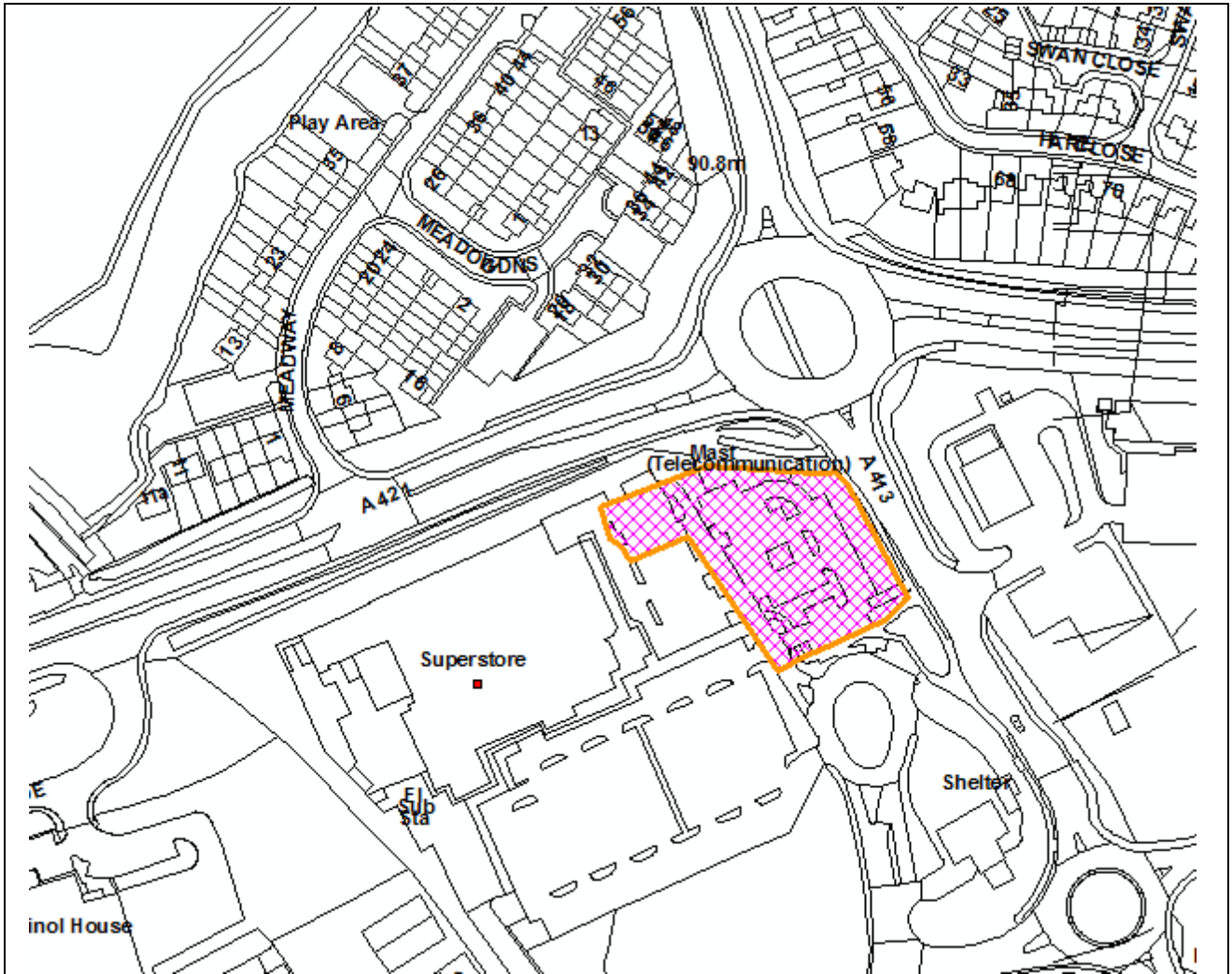
- 9.24 Policy GP24 of the AVDLP seeks to maintain car parking appropriate to levels of development. SPG Parking Guidelines state that, for a three bedroom dwelling, two parking spaces are required within the curtilage of the dwelling. These spaces, at a minimum, must be 2.4m in width and 4.8m in depth.
- 9.25 Plan no. PL408/2019/01 show provision for one space within the existing garage, and another on a grass-crete parking area to the front of the extension. As such, the proposed development is considered to accord with AVDLP policy GP24, policy T6 of the emerging VALP, the Council's SPG Parking Guidelines and the NPPF.

Case Officer: Megan Wright

[mwright@aylesburyvaledc.gov.uk](mailto:mwright@aylesburyvaledc.gov.uk)

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18/02959/APP



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| REFERENCE NO   | PARISH/WARD   | DATE RECEIVED |
|--|---|---------------|
| 18/02959/APP   | BUCKINGHAM  | 22/08/18      |
| DEVELOPMENT OF A DRIVE-THRU RESTAURANT (CLASS A3/A5) WITH ASSOCIATED CAR PARKING AND LANDSCAPING WORKS. THE RECONFIGURATION OF PART OF THE WIDER CARPARK AND THE RELOCATION OF THE CLICK AND COLLECT FACILITY. | The Local Member(s) for this area is/are: -<br>Councillor Robin Stuchbury<br>Councillor Howard Mordue |               |
| LAND ADJACENT TO TESCO STORES LTD LONDON ROAD MK18 1AB   |   |               |
| TESCO LTD.   |   |               |
| STREET ATLAS PAGE NO.52  |   |               |
| <b>1.0 The Key Issues in determining this application are:-</b>  |   |               |

**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**

- Sustainable Location
- Principle of Development
- Building a strong competitive economy
- Promoting sustainable transport
- Conserving and enhancing the natural environment
- Making effective use of land
- Achieving well designed places
- Meeting the challenge of climate change and flooding
- Supporting high quality communications

**c) Impact on Residential Amenity**

**d) Other Matters**

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

## **CONCLUSION AND RECOMMENDATION**

This application has been evaluated against the extant Development Plan and the NPPF and the report has assessed the application against the overarching objectives of the NPPF and whether the proposals deliver sustainable development. In this case the Buckingham Neighbourhood Development Plan (BDNP) is an up to date neighbourhood plan that contains policies relevant to the determination of this application. It is part of the development plan, and S38(6) requires that

the development plan is the starting point in decision making, where applicable.

Whilst it is acknowledged that the proposal does result in the loss of existing landscaping and trees, it is considered that these have been kept to a minimum with removal being only where its required to accommodate the development. A revised landscaping scheme will be conditioned to ensure the details sought by the Arboriculturalist to ensure the viability of any new planting and the trees to be retained will adequately protected. Whilst it is acknowledged that the proposal results in a shortfall of parking, it is considered that the proposed development would unlikely have an impact on the highway safety and convenience on the adjoining highway. Officer's therefore do not considered that the reason for refusal could be sustained on this reason alone.

The proposed development is considered to achieve safe and suitable access, minimising any potential conflict between highway users. The building seeks to be sited an area of Buckingham which is predominately commercial in nature, the scale, height and design of the building would not appear at odds with the surrounding area. Adequate spacing and separation distances are to be retained between the proposed development and nearby residential dwellings to ensure the proposal does not result in any significant harm in respect of residential amenity.

Having regard to prevailing policy it is considered that the development would accord with the aims of the BDNP, the saved policies of AVDLP, the emerging VALP policies and the advice within the NPPF. As such it is recommended that this application be **APPROVED** subject to the following conditions:-

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

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

2. The materials to be used in the development shall be as indicative on approved drawing no. 6988-SA-8381-P005 A.

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

3. No works other than demolition shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Assessment of SuDS components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary, demonstrating that water quality, ecological and amenity benefits have been considered.
- Existing and proposed discharge rates and volumes for the proposed surface water system and wider network
- Construction details of all SuDS and drainage components
- Drainage layout together with storage volumes of all SuDS components
- Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus 40% climate change storm event should be safely contained on site.

- Details of how and when the full drainage system will be maintained, this should also include details of who will be responsible for the maintenance.
- Details of proposed overland flood flow routes in the event of system exceedance or failure with demonstration of the flow direction.
- Rainwater Collection

Reason: The reason for this pre-construction condition is to ensure that a sustainable drainage strategy has been agreed prior to construction in accordance with Paragraph 163 of the National Planning Policy Framework to ensure that there is a satisfactory solution to managing flood risk.

4. Works on site shall not commence until details of the proposed means of disposal of foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: The pre-commencement condition is required to ensure there is capacity within the existing network to support the proposed development and ensure the scheme can adequately drain in accordance with policy I5 of BDNP and the advice within the NPPF.

5. The development shall not be commenced until or unless the trees shown for retention on the approved plan No.9915 TPP 01 Rev B B have been protected by the erection of a barrier complying with Figure 2 of BRITISH STANDARD 5837:2012 positioned at the edge, or outside the Root Protection Area shown on the TREE PROTECTION PLAN. The protection measures referred to above shall be maintained during the whole period of site excavation and construction.

The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, in particular:

- There shall be no changes in ground levels;
- No materials or plant shall be stored;
- No buildings or temporary buildings shall be erected or stationed unless these are elements of the agreed tree protection plan;
- No materials or waste shall be burnt; and
- No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the Local Planning Authority

Reason: In order to minimise damage to the trees during building operations and to comply with policy DHE1 of Buckingham Neighbourhood Development Plan, policy GP38 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

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

landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.

Reason: To ensure a satisfactory appearance to the development and to comply with policy DHE2 of the Buckingham Development Neighbourhood Plan, policy GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

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

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP35 and GP38 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

8. Prior to the initial occupation of the development hereby approved, space shall be laid out within the site for parking and manoeuvring in accordance with the approved plans. This area shall be permanently maintained for this 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 in accordance with policy GP24 of Aylesbury Vale District Local Plan, Parking Guideline SPG and the advice within the National Planning Policy Framework.

9. No development shall commence until a Construction Transport Management Plan, to include details of:

- Parking for vehicles of site personnel, operatives and visitors.
- Loading and unloading of plant and materials
- Storage of plant and materials
- Programme of works (including measures for traffic management)
- HGV deliveries and hours of operation
- Vehicle routing
- Measures to prevent the deposit of materials on the highway
- On-site turning for construction vehicles

Has been submitted to and approved in writing by the Local Planning Authority. The development there after shall be carried out in accordance with the approved details.

Reason: To minimise danger and inconvenience to highway users. This is a pre-commencement condition as development cannot be allowed to take place, which in the opinion of the Highway Authority, could cause danger, obstruction and inconvenience to users of the highway and of the development and to comply with the advice within the National Planning Policy Framework.

10. Prior to the occupation of the development hereby permitted a Servicing Management Plan (SMP) which fully details delivery and servicing arrangements for the site (including servicing hours) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved plan and maintained as such thereafter.

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 advice within the National Planning Policy Framework.

11. Notwithstanding the development hereby approved, the 1.8 metre high perimeter fencing shall not be installed. Prior to the initial occupation of the development hereby approved, details of all screen and boundary walls, fences and any other means of enclosure must be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the building hereby approved shall not be occupied until the approved details have been fully implemented.

Reason: To ensure that the development does not result in any adverse impact on the character and appearance of the local area or cause highway safety concerns and to comply with policy GP35 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

#### Informative(s)

- 1) If during the development works contamination is encountered which has not been previously identified the Environmental Health department must be contacted immediately at [envhealth@aylesburyvaledc.gov.uk](mailto:envhealth@aylesburyvaledc.gov.uk). Works must cease on site until an appropriate remediation scheme is submitted to and agreed in writing by the local planning authority. Failure to remediate site contamination during development could result in serious long-term health impacts to future users of the development.
- 2) For the avoidance of doubt, details relating to advertisement and their location do not form part of this application. Advertisements are subject to separate legislation and where appropriate, advertisement consent will be required.

## **2.0 INTRODUCTION**

- 2.1 The application needs to be determined by committee as the town council has raised material planning objections and confirms that they will speak at the Committee meeting. Due the course of the application Buckingham Town Council have made extensive comments regarding a number of different material planning considerations. These broadly relate to highway matters, parking, residential amenity, loss of landscaping, drainage and operations of the business.
- 2.2 Whilst it is acknowledged that the proposal results in a shortfall of parking, it is considered that the proposed development would be unlikely to have an impact on the highway safety and convenience on the adjoining highway. It is regrettable that all of the existing landscape cannot be retained, particularly within the landscape buffer, however the remaining strip will be bolstered providing a continuous boundary along the outer perimeter of the site retaining adequate mitigation and preserving the character of the area. The proposal will be located a sufficient distance from residential dwellings to ensure the proposal does not result in any significant harm in respect of residential amenity. LLFA have been consulted as part of this proposal and raise no objections on the grounds of flooding. A condition will be imposed ensuring that adequate details of surface water and foul drainage to be submitted to and approved in writing by the Local Planning Authority.



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

- 3.1 The application site is located off London Road (A413), approximately 1.6km southeast of Buckingham Town Centre, and forms part of the land associated with the Tesco superstore and is located to the south of the A421. The vehicular access to the site, as with the current Tesco development, is via a roundabout on London Road (A413), which also serves an area of new residential development know as Lace Hill to the east and the newly constructed Lidl Store, including additional commercial development
- 3.2 The site is bounded by the A421 to the north with residential uses beyond and by London Road (A413) to the east beyond which lies the aforementioned retail, commercial and residential units, including the Shell petrol station, directly adjacent to the site. To the south is an access road leading to the Tesco service yard beyond which to the south and west lie employment units.
- 3.3 The site is note located within a Conservation and does not contain any listed buildings. The site is located within Flood Zone 1 (low probability of flooding).

### **4.0 PROPOSAL**

- 4.1 This application seeks full planning permission for the erection of a drive-thru restaurant (use class A3/A5) with associated car parking (28 spaces), outdoor seating in a patio area, external play area and landscaping. The proposal seeks to be erected on previously developed land currently associated with the Tesco superstore, with this land at present being used for car parking and a click and collect facility. As part of the proposed development a small section of the existing car park, adjacent to the existing superstore, will need to be reconfigured with the existing click and collect facility being relocated within this area. The click and collect facility will be relocated and sited between the proposed drive-thru restaurant and Tesco, to the east of the existing superstore. The proposed site layout shows the relocated click and collect to follow the same layout as the existing arrangement, only in a different location. The click and collect facility would comprise of a small unit, two vehicle bays for customers using the facility and a van loading bay.
- 4.2 The proposed building is to be two stories in height, with a footprint of 320sqm. It is to comprise the main counter, kitchen, back of house facilities and disabled toilet, along with some dining on the ground floor, whilst the main dining area is to be located on the upper floor alongside the staff room, staff changing rooms and male and female toilets.
- 4.3 The proposed drive-thru restaurant is to operate on a 24 hour basis and will employ 65 members of staff.

### **5.0 RELEVANT PLANNING HISTORY**

94/00465/APP - Jet wash area in filling station site - Approved

97/01266/APP - extension to retail food store – Withdrawn

98/00165/APP - proposed new footpath into site from the ring road – Approved

98/00236/APP - extension to food retail store – Approved

03/02869/APP - Erection of homeshop delivery area and canopy – Approved

04/01359/APP - Extension to provide dot-com facility, bulk store extension and jet wash – Approved

04/02549/APP - Installation of car wash and relocation of Jet Wash – Approved

06/01675/APP - Installation of ATM – Approved

08/00904/APP - Demolition of car wash and erection of new car wash centre – Refused

- 08/01376/APP - Installation of lobby screen at front entrance – Approved
- 10/00360/APP - Extension to Tesco Stores to create floorspace, access improvements, car park extension and alteration and associated works – Approved
- 13/01760/APP - Installation of pod with Canopy – Approved
- 13/03245/APP - Change of use for nine parking spaces to hand car wash and valeting operation including installation of an office and erection of a canopy. – Approved
- 13/03511/APP - Installation of dry cleaning, key cutting, shoe and watch repairs pod – Withdrawn
- 14/01370/APP - Installation of Dry Cleaning, Key Cutting, Shoe & Watch Repairs Pod to Class 1 Retail Premises. – Withdrawn
- 14/01841/APP - Replacement trolley bays from metal framed ones to Timber framed ones, new timber slat wall cladding adjacent the entrance. – Approved
- 14/03420/APP - Single storey rear extension to existing Dotcom facility, provision of a ramp and erection of a new 4 bay van loading canopy; extension to the existing service yard and erection of a 3.6 m high fence. – Approved
- 16/02038/APP - Installation of sprinkler tank and pump house within service yard. – Approved
- 16/03870/APP - Installation of dry cleaning, key cutting, shoe & watch repairs pod to front of store – Approved
- 17/02605/APP - Replacement of external doors, installation of roller shutter and installation of car park barrier. - Approved

Signage applications relating to the proposed development:

- 18/02970/AAD - Installation of 7no. Building fascia signs – Pending Consideration
- 18/02972/AAD - Installation of 1no. drive totem (6M), 2no. single sided directional sign 'Right Arrow', 1no. single sided directional sign 'Ahead Arrow' and 1no. appendage on existing Tesco monument sign - (5 total) – Pending Consideration
- 18/02976/AAD - Various site signage including 1 no. gateway height restrictor, 9 no freestanding signs, 2 no. banner units, 1 no. side by side directional, 23 no. DOT signs and 1no. play land sign – Withdrawn
- 18/04235/AAD - Site signage suite to include digital signs; various site signage including 4 no. freestanding signs, 2 no. banner units, 4 no. dot signs, 1 no. digital booth screen and 1 no. play land sign – Pending Consideration

**6.0 PARISH/TOWN COUNCIL COMMENTS**

- 6.1 Buckingham Town Council: Objects to the proposed development for the following reasons:
- 6.2 13/09/18:- *“Members could see no good reason for 24-hour opening, especially as Tesco closed at midnight, and suggested that 6am to midnight would be less disruptive for the neighbouring housing. CCTV surveillance was also requested. There was no information on the re-siting of the Click & Collect booth currently occupying 12 parking spaces on this site, which together with other concessions and this proposal would remove approximately 25% of the car parking.*

The entrance roundabout on the A413 would also be serving 50% of the residents of Lace Hill, customers and deliveries for the Lidl, Premier Inn, Beefeater and Costa, and the Care Home and proposed medical centre. Members questioned the adequacy of the access arrangements and the effect on the bypass roundabout. A traffic impact assessment was requested. To aid direct pedestrian access from the town, the surfacing of the desire line path in the embankment facing the bypass - included in previous Tesco proposals but not implemented - should be added to the plan. McDonalds should also consider employing litter-picking staff in a wide area centred on the restaurant and possibly sponsored litterbins (their responsibility to empty) fitted to separate recyclable and non-recyclable containers”.

6.3 07/02/2019:- “Members considered the additional documents supplied. Taking the response to comments made:

- A revised response from the LLFA is awaited; local knowledge on the drainage and attenuation systems in this site shows a long history of problems with the pipe work and attenuation tank and flooding in the London Road south of the Swan Pool.
- The additional attenuation tank space is welcomed but the outflow rates must be monitored to avoid flooding the ditch.
- Assurance was also sought on foul water disposal; customers will use the washing and toilet facilities, as will the kitchen putting further strain on the site's water supply and drainage.
- Members pointed out that there is already permission for nearly 400 new houses and that a new application for 420 was considered earlier in the evening. Even if the new Lidl takes some of the household shopping traffic, the car park at Tesco will need to be much bigger to cope.
- The Click & Collect booth required 12 parking bays when its application (13/01760/APP) was submitted, not the 10 quoted; Members await a drawing showing where it will be re-sited, together with the other concessions already occupying parking spaces.
- Councillors would also like to know what the applicants consider 'peak hours' for the phased deliveries as peak traffic times cover school traffic, local working times and out-commuting vehicles (which extend the peak at each end of the day). Traffic volumes along that stretch of the London Road will increase as the Lidl is to be followed by a Beefeater, Premier Inn and drive-through Costa, plus a care home and medical centre intended to serve the whole town all off the same junction - plus an estimated 50% of the residential traffic of the housing estate. The roundabout at the Tesco entrance suffers from inadequate width for northbound traffic to separate Tesco traffic from straight-ahead and the pedestrian-controlled crossing a short distance after it can cause backing up with the existing numbers of vehicles. Members advocated the installation of a road counter for several weeks to provide actual figures for traffic flow and queue lengths.
- How is sufficient parking space for the delivery vehicle(s) expected to be reserved - how many customer bays will be coned off, and for how long? Will a delayed delivery be retimed, or allowed to deliver on arrival, however much this encroaches on 'peak hours'? What if the driver is required to take a statutory break on arrival and occupies the space for longer than planned?
- Members reiterated their request that the desire line from the bypass crossing (clearly shown on the Landscape Master Plan) be formalised into a paved footpath, with associated pedestrian crossing points within the site both to the proposed McDonalds and towards the Tesco store. The applicants may think that schoolchildren will not form much of a clientele, but they do walk up to Tesco to buy lunch items and after-school snacks (hence the desire line) so they may also visit a

McDonalds if available. Furthermore all the new development plans make much of a switch to walking and cycling for their eventual residents which makes the site even more accessible time wise.

- This is a rural area with a poor bus service; young people learn to drive as soon as they can. Villages are often too far - and the roads not ideal- for staff to cycle or walk from. McDonalds may hope to recruit their entire staff from the town, but this is hard on the residents of surrounding villages who will have no allocated parking on the McDonalds site, and no chance to park in the (time-limited) Tesco car park. Nor have McDonalds apparently considered secure undercover cycle parking for those members of staff who can cycle to work.

Members invited the applicants to a meeting to discuss these points”.

- 6.4 28/03/19:- “Members felt that the applicants had failed to grasp the realities of rural transport; certainly the X5 and X60 stopped by the site, but the X5 does not have any stops between Buckingham and Bicester on the Oxford service, or Buckingham and Milton Keynes on the Cambridge service. It is therefore no use to anyone living in the area unable to walk or cycle to work. The X60 was slightly better, in that it had some stops within the town area, but the only adjacent village served (two-hourly, not on Sundays) was Maids Moreton. A considerable part of the west of the town and many of the nearby villages have no bus service, or not a daily one, or one which runs at suitable times for the employed. Those staff members who could cycle to work would certainly appreciate covered cycle racks or an indoor storeroom. Otherwise those old enough to drive probably will and therefore need parking space. The complacent attitude about the increasing number of residents and the pressure of traffic to be expected when the sites on the east of London Road were under construction, and then occupied, was criticised. Councillors are aware that the desire line pathway is outside the boundary of the Tesco site; however it is currently well used, particularly by schoolchildren taking the shortest way into Tesco's, and no fencing or planting has been installed to prevent this. At present it gives onto an area of car park; under this proposal it gives on to the roadway used by customers; either way children are at risk once within the site if no measures are put in place to safeguard them or prevent the use of the informal access”.
- 6.5 04/07/2019:- “Members welcomed the response on the desire line path, and other accommodations following the April meeting with the applicants, but regretted the loss of trees, which they felt could have been reduced by a realignment of the roadways”.

## **7.0 CONSULTATION RESPONSES**

- 7.1 Ecology: Raised no objection – it is considered that there is not reasonable likelihood of protected species being affected by this development. Therefore no supporting ecological information is required.
- 7.2 Buckingham & River Ouzel Internal Drainage Board: Raised no comments
- 7.3 Environmental Health: Raised no comments
- 7.4 Economic Development: welcomes the creation of jobs & training (would like to understand the breakdown between full-time and part time jobs); development seeks to diversify existing Tesco site; proposal seeks to reduce parking spaces and would like to ensure this does not have a detrimental impact and would like evidence to demonstrate how the development will not have an adverse impact on the vitality and viability of the town centre.
- 7.5 SUDs: Raised no objections subject to conditions requiring details of surface water drainage scheme. The development will increase the impermeable area of the site and subsequently increase surface water runoff. Surface water runoff will be attenuated within a cellular crate prior to discharging into the existing Tesco drainage connection. The

application has provided calculations to demonstrate the require storage capacity has been provided to account for the additional surface water runoff created by the proposed development.

- 7.6 Landscape: The proposed development could not go ahead without substantial loss of existing peripheral screen planting as well as existing internal planting, and there is insufficient space for effective replacement planting. It is considered that the site is too small to allow for the amount of redevelopment proposed without wider visual intrusion. Reducing the screening along the London Road boundary would open up views to the rest of the supermarket site as well as the proposed drive-thru restaurant and associated parking. The proposals are likely to have an adverse landscape impact with limited scope for mitigation.
- 7.7 Further comments received 26.02.19: There is some improvement in mitigation internally but it is insufficient to remove previous concerns about views from outside the site.
- 7.8 Arboricultural Officer: Objection – The impacts of the scheme are primarily related to tree loss, and this is considered to amount to significant harm. Compensation for the loss of trees has been proposed in the form of new planting, but this has not been demonstrated to offer commensurate levels of canopy cover or amenity, and there is no information to suggest that the trees will establish and be feasible in the long term.
- 7.9 BCC Highways: Raised no objection subject to conditions requiring parking and manoeuvrability to be laid out, construction management plan & a servicing management plan. Initial concerns were raised by BCC Highways with the key matters being the calibration of the queues did not represent the situation on the ground; the capacity of the drive-thru based on the average queue length and the use of 4.5m long saloon car; potential implementation of planning permission ref: 10/00360/APP. Further information was submitted in order to overcome these concerns.
- 7.10 Recycling & Waste: Request a vehicle tracking plan in the proposed layout. Vehicle tracking plan indicates satisfactory vehicle manoeuvrability within the site to be development and demonstrates that it has been designed to include efficient recycling and waste collection round, based upon the operating standards and vehicle dimensions.

## **8.0 REPRESENTATIONS**

8.1 As part of this application a number of third party representations were received raising the following material considerations:

8.2 Objections: 11

- Increase in traffic
- Not in keeping with the historic market town
- Will result in loss of business to other facilities
- Littering & Vermin
- Alternative sites available
- Health issues (obesity)
- Loss of House Value
- Strong food smells
- Close proximity to new residential area
- Increased pedestrian crossing will result in risk taking at light controlled junction
- 24 hour nature of development with regard to residents and anti-social behaviour
- Removal of trees
- Increase in noise
- Impact on Tesco carpark
- Inadequate replacement planting scheme

### 8.3 Supports: 6

- Currently travel to Milton Keynes or Bicester for McDonalds
- Would be successful with growth of Buckingham
- There are no residential properties directly adjacent
- Somewhere that residents will want to visit
- Due to location no additional noise should be generated.
- Next to a busy road so would be used by passing traffic or Tesco users.
- Supports Buckingham's economy (creation of jobs)
- Family friendly restaurants are needed in the area

## 9.0 EVALUATION

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

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

### Neighbourhood Plan

9.2 The Buckingham Neighbourhood Development Plan (BNDP) was 'made' in 2015. A number of BNDP policies are relevant to this application and will be considered in the following evaluation:

- DHE1 – Protect existing trees and provision of trees in development.
- DHE2 – Standard of ecological information required to minimise the impact on natural habitats.
- DHE5 – Biodiversity in Development Landscaping
- I1 – New disabled access requirement for new pedestrian routes
- I5 – Sewage Management

### Aylesbury Vale District Local Plan (AVDLP)

9.3 A number of saved policies within 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 GP8, GP24, GP17 GP35, GP38 – GP40, GP45, GP95 and BU3. They all seek to ensure that development meets the three objectives of sustainable development and are otherwise consistent with the NPPF.

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

9.4 A number of policies within the VALP (as modified October 2019 – all references to VALP hereafter refer to this edition) following the main modification consultation which started on the 5<sup>th</sup> November 2019, are now afforded some weight in the decision making process.

Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies.

- 9.5 Those of particular relevance are S1 Sustainable development for Aylesbury Vale, S2 Spatial Strategy for Growth, S3 Settlement Hierarchy and Cohesive Development, S5 Infrastructure, S7 Previously Developed Land, E5 Development Outside Town Centres, T1 Delivering the Sustainable Transport Vision, T4 Capacity of the Transport Network to Deliver Development, T5 Delivering Transport in New Development, T6 Vehicle Parking, T7 Footpaths and Cycle Routes, T8 Electric Vehicle Parking, BE2 Design of New Development, BE3 Protection of the amenity of residents, NE1 Biodiversity and Geodiversity, NE5 Pollution, Air Quality and Contaminated Land, NE8 Trees, Hedgerows and Woodlands, I4 Flooding.
- 9.6 Policies S1 Sustainable development for Aylesbury Vale, S7 Previously Developed Land, BE3 Protection of the amenity of residents, NE5 Pollution, Air Quality and Contaminated Land have been the subject of objections and the Inspector has not requested main modifications so these can be regarded as resolved and these policies can be given considerable weight. The remainder of these policies, except policy T4 Capacity of the Transport Network to Deliver Development, have been the subject of objections and the Inspector requested main modifications and confirmed that he is satisfied they remedy the objection so these can be given moderate weight. Finally, policy T4 Capacity of the Transport Network to Deliver Development can only be given limited weight as it is a new and untested policy which was introduced by a modification and therefore subject to consultation.

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

- ***Sustainable Location***

- 9.7 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.
- 9.8 In the Settlement Hierarchy Assessment 2017, Buckingham is identified as a 'strategic settlement'. Strategic Settlements each have population of above 4,000 which is considerably more than the remaining settlements. They have the greatest range of services and facilities in the district, playing an important role supporting smaller rural settlements. These settlements typically offer a choice of shops, post office, a fire and/ or police station, a library, and a range of employment opportunities. They are also well-served by public transport with hourly or more bus services. These settlements have all of the key services, however Buckingham does not offer a train station. Buckingham itself it therefore considered to be a highly sustainable location and should be a focus for growth. However, it remains necessary to consider the application against the sustainability tests of the NPPF as a whole rather than just locational characteristics.

- ***Principle of Development***

- 9.9 Paragraph 80 of the NPPF states '*planning policies and decisions should help create the condition 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*'. In order to support economic growth and productivity paragraph 82 of the NPPF goes on to acknowledge that there are specific locational requirements of different sectors which need to be recognised in planning policies and decision.

- 9.10 The proposed development of a drive-thru restaurant, falling within use classes A3/A5 are uses which are defined within the NPPF as 'main town centre uses'. It is acknowledged that the siting of such uses within town centres would support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption.
- 9.11 The proposed site of the new drive-thru restaurant sought is outside of Buckingham's defined town centre. Paragraph 86 of the NPPF requires a sequential test to undertaken for planning applications relating to main town centre uses which are sought not to be in an existing town centre. As the proposal relates to a main town centre use outside of Buckingham's town centre, a sequential test is required. The sequential test requires main town centre use to be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. Paragraph 87 of the NPPF advises that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. In this case, the site clearly lies outside of Buckingham town centre and therefore is not suitable without a sequential test being undertaken on the potential impact of this development and the wider context of the site as a whole would have on Buckingham town centre.
- 9.12 The 'made' Buckingham Neighbourhood Development Plan (BNDP) set out policies to revitalise and grow the town centre of Buckingham and therefore emphasis is protecting and enhancing the town centre. Policy EE3 of BNDP supports new town centre uses within Buckingham town centre. The development site is not allocated in the BNDP, AVDLP or the emerging VALP.
- 9.13 This application was supported by Planning Statement and Sequential Assessment, prepared by DPP Planning which acknowledges the need to undertake a Sequential Test. Within this supporting document it outlines that the gross internal area (GIA) of the proposed restaurant is 547sqm, and the total area of the proposed site is approximately 0.28ha. It is advised that the amount of development relates directly to the operational requirements of the end user and is the minimum necessary to deliver the proposed operation.
- 9.14 Within the supporting Sequential Assessment, the Aylesbury Vale District Council Housing & Economic Land Availability Assessment (HELAA) Version 4 was used to identify sites that the Council consider to be suitable for retail development within Buckingham. Some of the sites identified within the HELAA have also been allocated within the BNDP. Furthermore, within the accompanying Sequential Assessment, other available sites were considered which were not identified in the BNDP or the HELAA. The sites identified within the supporting Sequential Assessment were considered not to be suitable alternatives to the application site, on the basis of the sites having been occupied or currently under construction, the requirement for comprehensive development, traffic implications and the presence of listed buildings. In addition to this conclusion within the supporting Sequential Assessment, the following conclusion was also provided: *'it is considered that, by definition, a drive-thru restaurant supports vehicular trade, which includes customers passing on the adjoining regional highways network. Drawing this traffic into the town would have implications for accessibility within the town centre, particularly on market days (Tuesday and Saturday) when areas of the town centre become partly pedestrianised. It is noted from the 2016 Town Centre appraisal that issues regarding parking within the town centre were seen as one of the key negatives for the town centre'*.



9.15 In light of the assessment provided which is supported by Officers, it is concluded that there are no site which are suitable and available which could be considered sequentially preferable to the application site.

9.16 Turning to the requirements paragraph 89 of the NPPF, an impact assessment for retail and leisure development outside town centres is required if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). Whilst it is acknowledged that there is currently no locally set threshold, emerging policy E5 (Development outside Town Centres) of VALP states that for proposals likely to affect any other defined town centre that is not Aylesbury, there will be a requirement for an impact assessment to be submitted for proposals which exceed the threshold of 400sqm or more. As this policy is currently only afforded moderate weight and given specifics of the proposal; the existing arrangement's of Buckingham's historic market town it is considered unreasonable to request an impact assessment at this stage. As such, the proposed gross internal floorspace restaurant is 547sqm and given there is currently no locally set threshold, the floorspace of the proposal falls below the national requirement to undertake an impact assessment.

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

9.17 The Government is committed to securing and supporting sustainable economic growth and productivity, but also that this would be achieved in a sustainable way. Paragraph 80 states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

9.18 There would be economic benefits derived from this development in terms of the construction of the development itself and the creation of 65 equivalent full-time jobs. As outlined within the submitted design and access statement and planning statement has advised that McDonald's is '*committed to staff education incorporating both internal training programmes and externally recognised qualifications*' in hospitality, literacy and numeracy. The provision of an additional commercial building on an existing previously developed site, without the loss of any existing facilities will support in bringing inward investment into Buckingham, contributing to the creation of a prosperous local economy. Concerns have been raised that the proposed development will result in a loss of business to the facilities. There is no information before Officers to suggest that this would be the case and as outlined above within the principle of development, a sequential test has been undertaken to ensure the development does not undermine the viability of the town centre.

9.19 Overall, it is considered that the proposed development will result in economic benefits which is a positive and would support the Government's objective of supporting sustainable economic development.

- ***Promoting sustainable transport***

9.20 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.

- 9.21 I1 (New disabled access required for new pedestrian routes) – Pedestrian routes should be suitable for disabled access. Routes must provide seating to ensure that those with mobility problems have the option to stop for a rest.

*Location & Sustainability:*

- 9.22 The application site is located within the existing car park associated with Tesco's superstore and would be accessed via the existing London Road roundabout. London Road is an A road classified as the A413 which serves as the main route into Buckingham. The section of London Road where the roundabout is located is subject to a 30mph speed limit. The site itself is considered to be sustainably located from a transport perspective as it benefits from good pedestrian and public transport links. The application was accompanied with a Transport Assessment (TA) which provides a detailed assessment into the relevant highway matters associated with the proposed development.

*Footways:*

- 9.23 The proposed site layout shows pedestrians will be able to access the site safely with the proposed development being connected to the existing pedestrian access located to the south-east of the site. Limited new pedestrian links are required as a result of the proposed development and are shown to vary in width, with the narrowest footway measuring 1.5metres. It is acknowledged that new footways should ideally measure at least 2 metres. The new footway which leads directly into the site off of the existing pedestrian access to the south-east of the site, measures 1.5 metres. Whilst this footway width does fall below 2 metres, the footway would still be suitable to provide disabled access to the development. Furthermore, the accesses which do fall below 2 metres in width are only for a short distance, providing a connection across to proposed drive-thru restaurant. For these reasons, BCC Highways do not consider it reasonable to insist on these footways being widened to 2 metres.
- 9.24 When conducting a site inspection for this application, it was clear that there is an existing pedestrian desire-line (informal access) at the north of the site leading from the A421/London Road roundabout into the site. As part of this application, it was queried as to why a pedestrian link was not proposed to be sited in this location, particularly given its relationship to the surrounding pedestrian routes. A further Technical Note was submitted, addressing a number of points including this matter and it advised that due to the height difference between the pavement and the top of the bank it would not be possible to provide a link that would cater safely for all users. Tesco have also stated that they would like to increase the security of the site in this area. BCC Highways have advised that boundary treatment would be required along this boundary, where there is this existing desire-line to prevent conflicts between pedestrians and users of the drive-thru. Whilst it was worth exploring this matter, BCC Highways has confirmed the existing formal pedestrian access into the site is adequate, without the need for additional access.

*Traffic Movements & Impact on Highway Network:*

- 9.25 As part of the application, surveys were undertaken at existing McDonald sites, which have similar relationships to the town, food stores and traffic flows, in order to determine the nature of vehicle movements associated with the proposed development of this nature. BCC Highways conducted their own assessment using the Trip Rate Information Computer System (TRICS©) to estimate the likely trip generation associated with the proposal. The survey also included a break-down of the nature and percentage of these trips, ie, 'additional trips' (completely new trip, where the customer is returning to their original

destination after completing their visit, eg. Home – McDonalds - Home); 'diverted trips' (trip where the customer is already on the network, but alters their route to visit the site, eg. Work – McDonalds - Home); pass by trips (trip where the customer is passing directly past the site and turns in); and shared trips (trip where the customer is already visiting the food store and decides to visit McDonalds whilst there). Following BCC Highways own assessment of the survey using (TRICS©) they have advised that they are satisfied with figures provided in terms of them being generally representative of the frequency/character of the likely vehicle movements associated with the development and the figures are suitable to assess the impact of the proposed development.

- 9.26 A table has been provided within the TA which has used the proportions derived from the surveyed sited to estimate the number of new, pass by/ diverted and shared trips that the proposed development would attract. The table demonstrates that during the Friday PM peak the new drive through would be likely to generate a total of 129 'in' movements, of which 44 of these would be completely new, 58 of these would be pass by/diverted trips and 27 of these would be shared trips. During this peak there would be 135 'out' movements, of which 46 of these would be completely new, 60 of these would be pass by/diverted trips and 29 of these would be shared trips. The 'shared trips' do not need to form part of the assessment; the 'pass-by trips' need only be included in the assessment of the site access; and the 'additional trips' need to be included in the assessment of the site access and the assessment of the local highway network. The 'diverted trips' must also be included in both the assessment of the site access and of the local highway network. Although these trips are already on the local highway network it cannot be determined exactly what part of the local highway network these vehicles are travelling on, therefore they must be included in both assessments.
- 9.27 The data submitted in the TA does not differentiate between pass-by trips and diverted trips, however the likely routing of these trips has been investigated. Given the location of the application site it has been assumed that the vast majority of the diverted trips would be diverted from and back to the A421/London Road roundabout. BCC Highway have confirmed they are content with this approach, especially when considering residents of the new Lace Hill development adjacent to the site would be likely to visit the site.
- 9.28 As shown in Table 5.8 of the TA, during the Friday PM peak the proposed drive through would be likely to generate a total of 102 'in' movements, of which 19 of these would be pass by trips, 39 would be diverted trips and 44 would be completely new. During this period the drive through would be likely to generate a total of 104 'out' trips, of which, 19 of these would be pass by trips, 39 would be diverted trips and 46 would be completely new. The flows of these diverted vehicles have been distributed proportionally onto the A421/London Road roundabout based on the existing base flows on the local highway network which BCC Highways have confirmed is an acceptable way of assessing the impact of the pass-by and diverted trips.
- 9.29 The submitted TA takes into account committed development, with the distribution onto the highway network in line with committed developments individual assessment or with the surveyed traffic proportions which BCC Highways confirm is an acceptable method. Using the base line flows, future growth, committed development and vehicle movements associated with the proposed development, the London Road (north)/A421 (east)/London Road (south)/A421 (west) roundabout and the London Road (north)/Tesco/London Road (south) roundabout have been assessed. Initially BCC Highways raised concerns that the Arcady model used for the assessment had not been calibrated, which meant there were concerns with the queue length shown and whether this was an accurate reflection of the situation on the ground.

9.30 Furthermore, BCC Highways initially raised significant concerns with the possibility of Tesco constructing their large extension (1,897sqm) which was approved as part of application 10/00360/APP as it was found that the proposed extension would generate in the region of 147 new 'in' vehicle movements and 166 new 'out' movements in the Friday PM peak. The Technical Note which is supported by BCC Highways outlines that the proposed drive-thru restaurant is expected to generate a less number of new vehicle movements in the Friday PM peak and Saturday peaks when compared to the previously approved Tesco extension, which received no objections regarding increased levels of vehicle movements. As no formal Certificate of Lawfulness has been submitted to confirm the Tesco extension (approved as part of application 10/00360/APP) has been implemented, Officers cannot confirm whether this is the case. Nevertheless, subject to this Tesco extension not being constructed, BCC Highways do not believe this matter can be taken further given the reduction in expected vehicle movements. If this could not be secured, BCC Highway would require further assessment and calibration of the ARCADY model. Legal Advice was sought by Officers with regard to whether this could be secured, as it is not known whether the permission is extant. Tesco have submitted letters as part of this application, confirming that they are not seeking to construct the extension and have submitted a Unilateral Undertaking (UU), a legal agreement, confirming that if this proposed development were to be implemented the Tesco extension would not come forward. Legal advice has confirmed that this UU would be sufficient to ensure the Tesco extension would not come forward and therefore BCC Highways raise no objection to the vehicle movements associated with the proposed development.

*Site's Internal Arrangement:*

9.31 The proposed development seeks to be served via an existing carriageway serving the Tesco superstore and associated facilities. Within the wider site, a new lane is to be provided serving the proposed development which would allow for 4 cars to stack and wait before accessing the site which is considered to be acceptable as BCC Highways would not expect this to result in vehicles backing up throughout the wider site. Once within the site, the carriageway splits, providing one lane which would be one way only for the drive-thru and another to access on site parking provisions. The submitted swept path analysis demonstrates a 5 metre long car would be able to travel through the site satisfactorily.

9.32 The site layout originally submitted for the proposed development showed the area to have a two way carriageway with vehicles exiting the drive-thru able to park within the site. Concerns were initially raised by BCC Highways with regard possible conflict and confusion for customers due to the level of indivisibility between vehicles exiting the drive-thru and vehicles existing the proposed parking area (adjacent to the disabled bays). Following these concerns, amendments were made to the site layout, altering the exist from the car park and drive-thru, including a change of priority for vehicles at this point. These amendments have addressed the concerns raised.

9.33 The applicant has confirmed that the barrier shown on the proposed plans, is only a height restriction and will allow for cars and small vans to pass underneath only, limiting larger vehicles. Whilst BCC Highways queried the use of a 4.5m car length when compared to the standard Passenger Car Unit (PCU) of 5.75m, after further assessment the spacing between the cars this would effectively allow for an identical capacity when using the PCU length.

*Servicing:*

9.34 The information submitted advises that deliveries would be undertaken by a 16.5metre long articulated HGV. The swept path analysis submitted shows this vehicle manoeuvring through the car park and exiting the site, however it does state 'Delivery vehicles to park over proposed parking bays'. There are concerns over this arrangements, as although the TA advises this would be strictly managed, this would be discretionary without a condition

being imposed ensuring this arrangement is managed. The TA mentions that delivery times can be tailored to suit a particular site, with deliveries at lunch time to be avoided. As such, whilst the parking provision of the site is to be assessed below, the proposal does result in a shortfall of parking spaces and therefore a condition relating to delivery/ parking management is required to ensure this arrangement does not result in any adverse impacts. As part of the amendments to the site layout, new swept path analysis shows that large vehicles (16.5m long articulated vehicle) serving the site would be able to manoeuvres without over-running the kerbs. In addition to this, the revised layout shows large service vehicles existing the site without overrunning the opposing lane of the carriageway. The submitted technical note advises that no home deliveries are planned at this particular location, however BCC Highways do consider that even if this were to occur this would not impact on the local highway network.

- 9.35 Overall, the proposed development is considered to achieve safe and suitable access, minimising any potential conflict between highway users and therefore would comply with the aims of policy I1 of BNDP and the advice within the NPPF.

*Parking:*

- 9.36 AVDLP policy GP24 requires that new development accords with published parking guidelines. SPG 1 "Parking Guidelines" at Appendix 1 sets out the appropriate maximum parking requirement for various types of development.
- 9.37 The assessment of the site's parking requirements were carried out using the Draft Buckinghamshire Countywide Parking Guidance, which has now be adopted with a minor amendment to the floorspace. Whilst this is noted, Aylesbury Vale District Council are the parking authority and have their own standards. As such, the assessment into the site's parking requirements will be in accordance with the policy and supporting guidance outlined above.
- 9.38 The proposed development seeks to be located on land currently associated with the existing Tesco superstore which seeks to be retained. As outlined above, the existing superstore was granted a large extension as part of application 10/00360/APP. A Unilateral Undertaking has been submitted as part of this application, stating that the large extension to the existing Tesco will not come forward if the development sought as part of this current application were to commence. As such, the parking requirements associated with this extension to the superstore has not been taken into account when establishing the required parking provisions for the proposed development and the existing Tesco superstore, which is to be retained. Amended plans were received to overcome initial concerns with the existing Click and Collect facility, which seeks to be relocated, not being shown on the existing plans. With regards to staff parking for McDonalds; the Transport Note confirms that no designated staff parking would be provided within the site and have confirmed that this was included within the parking surveys undertaken.
- 9.39 The TA includes a car park utilisation study including the results of a parking survey undertaken on Friday 22nd, Saturday 23rd and Sunday 24th June 2017. These surveys were undertaken between 08:00 – 19:00 on Friday, 08:00 – 16:00 on Saturday and 10:00 – 16:00 on Sunday. These surveys demonstrated that on these dates the maximum parking demand was 259 spaces on the Friday, 305 on the Saturday and 190 on the Sunday. Whilst this is noted, BCC Highways still have concerns over the lack of future capacity and the ability to cater for peak periods around major public holidays.
- 9.40 As part of the Officer's assessment of the existing on-site parking provisions, Officer's reviewed the planning history for the wider. This assessment reviewed all development approved as part of the wider site which had implications on the wider site's parking provision in order establish the existing level of on-site parking spaces. This assessment

revealed the existing wider site should contain 395 spaces. This differs from the figure provided within submitted Transport Statement which advises a parking survey was undertaken and found the site to have 404 existing on-site parking spaces. Due to this slight discrepancy between the numbers of existing on-site parking spaces an assessment was carried out using both figures. Clarification has been provided with regard to the term 'reserved bays' on the submitted plans. These bays will be used for customers that need to wait for their order to be prepared to ensure they do not block the drive-thru lane. As these bays still provide a space to park whilst using the facilities these have been included as parking bays within the below assessment. A table below has been provided to demonstrate the assessment which took place:

| <b>Parking Assessment against Planning History (Officers Calculations)</b>  |  |
|---|--|
| Existing Tesco Store: 5,813 g.f.a<br>Parking Standards for superstores with g.f.a over 2,500m <sup>2</sup> requires 1 space per 17m <sup>2</sup> g.f.a  | Parking requirement for existing Tesco Store = <b>342 spaces</b>   |
| Officers report as part of application 10/00360/APP advised existing car parking provision before large extension   | = 416 spaces<br><b>( = Overprovision of 74 spaces)</b>   |
| Applications 13/01760/APP & 13/03245/APP for the erection of a car wash and a click & collect facility  | These proposals result in the loss of parking = -21 spaces<br><b>(= Overprovision of 53 spaces)</b>  |
| Proposed development results in the loss of existing spaces   | The proposal results in a loss of 79 spaces plus the existing overprovision of 53 spaces<br><b>= -26 spaces</b>  |
| Parking Standards require 1 space per 6m <sup>2</sup> public floorspace. Proposed building advises floorspace of 547m <sup>2</sup> whereas Transport Assessment advises 585m <sup>2</sup> (for the purposes of parking this measurement is not wholly applicable as the calculations are based on public floorspace). The internal public floor space is as follows: <ul style="list-style-type: none"> <li>• Ground Floor: 74.96m<sup>2</sup></li> <li>• First Floor: 134.19m<sup>2</sup></li> </ul> | The public floorspace of the proposed development would result in 35 spaces being required. Minus the existing shortfall of 26 spaces<br><b>= -61 spaces</b>     |
| The proposed seeks to provide 28 spaces.  | <b>Overall the proposed development results in a <u>shortfall of 33 spaces</u></b><br><b>Total Number of spaces for site and wider site would be 344 spaces.</b> |

| <b>Parking assessment against existing number of spaces with carpark (as advised in supporting information as part of this application following on-site parking survey)</b> |                   |
|--|-------------------|
| Parking Survey results of existing on-site parking spaces identified in Transport Assessment   | <b>404 spaces</b> |

|   |  |
|---|--|
| Existing Tesco Store: 5,813 g.f.a<br>Parking Standards for superstores with g.f.a over 2,500m <sup>2</sup> requires 1 space per 17m <sup>2</sup> g.f.a  | Parking requirement for existing Tesco Store = <b>342 spaces</b><br>( = Overprovision of 62 spaces)  |
| Proposed development results in the loss of existing spaces   | The proposal results in a loss of 79 spaces plus the existing overprovision of 62 spaces<br><b>= -17 spaces</b>  |
| Parking Standards require 1 space per 6m <sup>2</sup> public floorspace. Proposed building advises floorspace of 547m <sup>2</sup> whereas Transport Assessment advises 585m <sup>2</sup> (for the purposes of parking this measurement is not wholly applicable as the calculations are based on public floorspace). The internal public floor space is as follows: <ul style="list-style-type: none"> <li>• Ground Floor: 74.96m<sup>2</sup></li> <li>• First Floor: 134.19m<sup>2</sup></li> </ul> | The public floorspace of the proposed development would result in 35 spaces being required. Minus the existing shortfall of 17 spaces<br><b>= -52 spaces</b>     |
| The proposed seeks to provide 28 spaces.  | <b>Overall the proposed development results in a <u>shortfall of 24 spaces</u></b><br><b>Total Number of spaces for site and wider site would be 353 spaces.</b> |

9.41 Given the nature of the site, the difference of 9 spaces shown in the assessments is considered not to have a significant impact on the wider context and the parking provision of the site itself. Furthermore it is acknowledged that the submitted Technical Note advises 83 existing spaces will be lost as a result of the development, however Officers have reviewed the site plans submitted and have calculated a loss off 79 existing spaces (82 spaces lost incl. click & collect revised location + 3 new spaces = 79 spaces). As such, it is considered that the calculation within the Technical Note counted an extra space and did not take into account the provision of 3 new spaces within the Tesco Car Park and the proposed parking provision associated with McDonalds. Additional information was requested by BCC Highways with regard to parking provision associated with the existing Tesco's and the potential lack of parking at peak seasonal times. A parking survey was submitted to demonstrate that on a standard day, the car park would have capacity. BCC Highways acknowledge the proposal will result in a shortfall of spaces, when considering the wider site and the proposal and there are concerns with peak periods (major public holidays). It is considered by BCC Highways that users would be unlikely to park anywhere that would impact on the local highway network, as they are likely to either wait or park elsewhere within the wider site which is some distance from the publically maintained highway. Furthermore, BCC Highways conducted an additional TRICS® assessment of similar fast food drive thru facilities in similar locations with regards to their parking capacity. This TRICS® assessment does not highlight any particular pattern at existing sites which would lead BCC Highways to believe that there would be any significant issue with regards to the parking capacity.

9.42 As such, BCC Highways have advised that it would unlikely have an impact on the highway safety and convenience on the adjoining highway. Officer's therefore do not consider that a reason for refusal could be sustained on this ground alone. Furthermore, due to the location of the proposed development, it is likely that a number of customers will access

the site by walking or cycling. The parking requirements outlined in SPG 1 "Parking Guidelines" at Appendix 1, sets out the appropriate maximum parking spaces required and therefore the proposed development is considered not to conflict with the aims of GP24 of AVDLP, SPG 1 "Parking Guidelines" and the advice within the NPPF.

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

*Landscape:*

- 9.43 In terms of consideration of impact on the landscape, proposals should use land efficiently and create a well-defined boundary between the settlement and countryside. Regard must be had as to how the development proposed contributes to the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains where possible and preventing any adverse effects of pollution, as required by the NPPF. The following sections of the report consider the proposal in terms of impact on landscape, agricultural land, trees and hedgerows and biodiversity.
- 9.44 Section 15 of the NPPF states planning policies and decision should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services –including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 9.45 Policy GP.35 of the AVDLP requires new development to respect and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines. This policy is considered to be consistent with the NPPF.
- 9.46 Policy GP.38 states that development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible.
- 9.47 The proposed development is to be sited within a predominately commercial and industrial section of Buckingham with residential development being located beyond the A421 and to the south-east, on the opposite side of the A413 (London Road). The building seeks to be located on an area of previously developed land which currently serves as car parking for the Tesco superstore with part of the site currently accommodating the existing click and collect facility. Located along the outer perimeter of the site there is a relatively substantial landscaping buffer which provides mitigation for the services located within the wider site of Tesco. As such, the provision of this landscape buffer is considered to be an important feature of the site. This landscape strip was originally provided to soften the impact of the commercial and industrial activities which take place within the area and to provide a soft transition between the built development and its once, rural edge with the open countryside. In light of recent approvals, the site's relationship with the open countryside has changed quite significantly, particularly due to the grant of the new residential and commercial development to the south-east of the site.
- 9.48 As a result of the proposed development, this landscape buffer will be compromised and noticeably reduced in order to accommodate the building and its associated facilities. Whilst this is noted, a landscaping strip is shown to be retained along the entire outer perimeter of the site retaining this character of the immediate area and providing mitigation for the development. A detailed landscaping scheme was submitted as part of this application, however there still does remain some concerns with regards to the details shown which are shown. These concerns will be discussed below as part of the trees and



hedgerow section of the report. Therefore a notwithstanding condition will should be imposed if the development were to be approved requiring a new landscaping scheme. Nevertheless, as noted the existing landscape strip does have breaks and is thin, particularly in one of the more sensitive views towards the site, from the roundabout serving the A421 and A413. The submitted landscaping does seek to bolster the remaining landscape strip and where possible, infill the existing breaks within this boundary which is considered to be positive.

- 9.49 Furthermore, it is acknowledged that the submitted plans show the provision of a 1.8 metre high fence along the perimeter of the site. Given varying ground levels and the prominence of this corner plot this raises significant concern as boundary treatment of this nature is likely to appear overly stark in the local streetscene. Officers acknowledge that there may be a need for some form of boundary in this location for highway safety reasons and to deter anti-social behaviour and therefore a condition should be imposed removing this element of the scheme with the submission of revised details for approval.
- 9.50 The relocated click and collect facility is located within the confines of the wider site, away from its boundaries and therefore given its scale, its relocation is considered to have a negligible impact on the wider character and appearance of the local area.
- 9.51 As such, whilst it is regrettable that all of the existing landscape cannot be retained, the remaining strip will be bolstered providing a continuous boundary along the outer perimeter of the site. This is a matter which can be controlled by condition. It is therefore considered that given the commercial nature of the site and the partial retention of the landscape buffer, the proposal is considered not to have significant adverse impacts on the landscape and therefore is considered to accord with policies GP35 & GP38 of AVDLP and the advice within the NPPF.

*Trees and Hedgerows:*

- 9.52 Policies GP.39 and GP.40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value.
- 9.53 DHE1 (Protect existing trees and provision of trees in development): Wherever possible existing trees will be maintained in accordance with British Standard BS5837 or as superseded, in development proposals for all new buildings, in addition new developments need to make provision for trees on site. Provision of new trees should include species and types of tree to ensure that the landscape retains its current character.
- 9.54 This application has been accompanied with an Arboricultural Impact Assessment and a detailed landscaping scheme. This information has been reviewed by the Council's Arboriculturalist who retains some concerns with the proposed development. As set out above, the submitted information does acknowledge that there will be some loss to the existing landscaping within the site and its boundaries in order to accommodate the proposed development. Whilst the Arboricultural Officer does not object to the removal of this landscape, significant concerns were raised with the mitigation details provided. There were also concerns that the submitted Arboricultural Impact Assessment does not acknowledge the significance to the loss of the landscaping.
- 9.55 Whilst additional tree planting is welcomed, it is unclear how 15 trees of medium ultimate size will offer adequate compensation for the loss of some 32 trees (inclusive Cat U) several of which are large canopy species. Furthermore the Arboricultural Officer states that the submitted statement advises that tree pit details can be dealt with by condition, however this *'does not allow confidence that design is factoring in engineering solutions to allow appropriate soil volume'*. *The current plans show more trees within the same area of*

*apparent restricted soil as previous which raises more concern about the viability of threes as opposed to easing them’.*

- 9.56 Following these comments, revised plans were received with the Arboricultural recognising that the number of new trees to be planted had increased, however the revised plans largely remained unaddressed. These comments from the Arboricultural Officer were supported the landscaping plan being annotated to advise the applicant of the expectations. Further amendments were received however there have been no revised comments from the Arboricultural Officer to date. When comparing the annotated plans from the Arboricultural Officer with the most recent set of landscaping plans, these do not appear to have provided information relating to soil volume or whether suspended pavement style engineering solutions are proposed. As such, Officers considered that these details can be secured through the use of appropriate conditions. A tree protection plan has been submitted as part of this application to accord with policy DHE1 of the BNDP. A condition would be required securing these protection measures.
- 9.57 Overall, whilst it is acknowledged that the proposal does result in the loss of existing landscaping and trees, it is considered that these have been kept to a minimum with removal being only where its required to accommodate the development. A revised landscaping scheme will be conditioned to ensure the details sought by the Arboriculturalist to ensure the viability of any new planting and the trees to be retained will adequately protected. The proposal is therefore considered to accord with the aims of policy DHE1 of BNDP, policies GP39 and GP40 of AVDLP and the advice within the NPPF.

*Biodiversity/Ecology:*

- 9.58 Paragraph 170 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity.
- 9.59 Within the BNDP there are a number of policies relevant to this matter. Policy DHE2 advises that development proposals should, where possible, minimise impact on natural habitats and species resulting in net gains to biodiversity. Ecological information provided in support of applications must conform to the British Standard BS42020, Biodiversity – Code of practice for planning and development. Policy DHE5 states landscaping schemes for developments must show how they maximise benefits to biodiversity. The selection of ecologically appropriate native species, of local provenance needs to be included within schemes, Only native trees species or orchard trees are acceptable on public open space.
- 9.60 The application site is previously developed land currently used for car parking and a click and collect facility associated with the Tesco superstore. As such, the is considered not to be reasonable likelihood of protected and priority habitats or species being affected by this development. Subsequently there is no requirement to submit supporting ecological information nor does the Ecologist raise any objections to the proposed development. Whilst it is acknowledged that no conditions have been requested by the Council’s Ecologist in respect of biodiversity, policy DHE2 requires landscape proposed to demonstrate how they will maximise biodiversity. As such, it is considered reasonable to impose a condition requiring details of how the proposal will result in biodiversity net gains and securing their implementation.
- 9.61 This application has been supported by a landscaping scheme, however this does not outline/ show how the scheme maximises benefits to biodiversity. Policy DHE5 states landscaping schemes for development must show this and therefore to ensure the proposal accords with this requirement in policy DHE5 of BNDP a condition should be imposed requiring the submission of a revised landscaping scheme.

- 9.62 Subject to these conditions being imposed, the proposal is considered to accord with policies DHE2 and DHE5 of BNDP and the advice within the NPPF.
- 9.63 *Pollution/Contamination:*
- 9.64 Further consideration in the NPPF in relation to the need to conserve and enhance the natural environment is contamination, and the guidance states in paragraph 178 that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions.
- 9.65 Prior to wider site becoming Tesco, research conducted by the Pollution Control Officer shows engineering works were historically present adjacent to the application site. When the wider site was redeveloped to accommodate Tesco's the planning decision makes no reference to conditions relating to contaminated land. It is therefore unknown as to whether the site was investigated for the potential presence of contamination during the redevelopment. Whilst this is noted, the application site is located within the grounds of the engineering works and not on the footprint of the factory building itself. Furthermore, Environmental Health are not aware of an pollution or contamination issues within the site or wider area and therefore the risk of contamination being present at the site is relatively low.
- 9.66 In addition, the Council's historic land use records also indicates the presence of 3 former railway cuttings which are labelled as landfill sites. These received permission to be infilled with a mixture of naturally occurring excavated material and thus these types of inert wastes have minimal contaminative properties. Thus again, resulting in a relatively low risk of contamination.
- 9.67 Overall the Pollution Control Officer has advised that the risk of encountering contaminated land at the site is relatively low and therefore has requested no conditions, with the imposition of one informative advising how the applicant should proceed if contamination were to be encountered. As such the proposal is considered to accord with the advice within the NPPF.

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

- 9.68 Section 11 of the NPPF requires that planning policies and decisions should promote an effective use of land while safeguarding and improving the environment and ensuring safe and healthy living conditions, maintaining the prevailing character and setting, promoting regeneration and securing well designed, attractive and healthy places.
- 9.69 The proposed development seeks to be sited on previously developed land which is currently utilised for car parking and a click and collect facility. The proposal will result in creation of 65 jobs, thus supporting the local economy. Furthermore, the proposal will provide a new facility within Buckingham which utilises previously developed land, without the loss of any existing facilities and therefore erection of a drive-thru restaurant in this location represents an effective use of land, complying with the advice within the NPPF.

- ***Achieving well designed places***

- 9.70 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.

- 9.71 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).
- 9.72 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. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments comply with key criteria.
- 9.73 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
- 9.74 The site located within a mixed use area and is surrounded predominately by commercial development with residential properties within the wider area. The options for development on this site are constrained by physical factors, namely ground level variations and the landscape buffer along the outer perimeter of the site. Furthermore, the proposal needs to be assessed in the context of the mixed use character of the area, with the built development in the vicinity of the site being mixed in respect of quality, scale and appearance, and in relation to the applicants operational model which drive a particular approach to the size, configuration and internal layout of its drive-thru restaurants.
- 9.75 The proposed drive-thru restaurant seeks to be located within a prominent position within the existing Tesco site. The proposed building seeks to be located within the corner of the site, adjacent to the roundabout where the A421 and the A413 (London Road) connect. Whilst it is noted that there is relatively substantial planting along this there outer perimeter, this does thin in places, particularly on this corner, allowing greater views of the site from the roundabout. The impact to this planting has been assessed above in this report.
- 9.76 The proposed building is predominately two-storey with a number of smaller, single storey elements. The total height of the building is shown to be 8.74 metres with the footprint of building being 320sqm. The ridge height of the building itself measure 7.29 metres and therefore the additional height is screening on top of the building to hide the plant located on top. The nearest building in relation to the proposed drive-thru restaurant is the Tesco superstore, which whilst appears to be of a single storey, has varying ridge heights of between 5.8 metres and 12.55 metres. It noted however, that the majority of the building has a ridge height of between 7.7 and 9.5 metres. As such, the height of the building proposed is considered to be acceptable. The proposed building is modern in design with an overhanging flat roof. The building has a distinctive glazed customer area which has been orientated to address the main frontage of the subject site, providing active frontage and increased surveillance on the proposed parking area. The buildings seeks to be constructed with natural effect timber, stone tile and timber effect panels.

- 9.77 As outlined above, the proposal also includes the relocation of an existing click and collect facility within the site. The click and collect facility comprises of a small scale unit, which is a common, ancillary feature of superstores and thus would not appear out of keeping or detract from the existing buildings on the wider site or the overall commercial nature of site.
- 9.78 Given the building seeks to be sited an area of Buckingham which is predominately commercial in nature, the scale, height and design of the building would not appear at odds with the surrounding area. Overall, the proposed development is considered to comply with policies GP35 & GP45 of AVDLP and the advice within the NPPF.

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

- 9.79 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.
- 9.80 Policy I3 of the BNDP advises that all new buildings must have a scheme to collect rainwater for use. To aid in helping reduce the carbon footprint of buildings, reduce surface water flooding and to help in times of drought, a water use scheme should be incorporated into the design of new buildings. Rainwater collection is in addition to and cannot be counted within attenuation of the development drainage proposals.
- 9.81 I5 (Sewage Management): Buckingham has an evidenced problem with sewage drainage. In order to manage this situation development requiring sewage drainage must demonstrate an appropriate solution.
- 9.82 The application site is located within Flood Zone 1 and therefore is considered to be at low risk of flooding. The application was accompanied with a Flood Risk Assessment and drainage strategy.
- 9.83 The proposed development will increase the impermeable area of the site and subsequently increase surface water runoff. Surface water runoff will be attenuated within a cellular crate prior to discharging into the existing Tesco drainage connection (via a private surface water sewer) to the Internal Drainage Board (IDB) ditch. The applicant has provided calculations to demonstrate the required storage capacity has been provided to account for the additional surface water runoff created by the proposed development.
- 9.84 The Lead Local Flood Authority (LLFA) raise no objections to the proposed development subject to conditions. To secure the following information:
- 9.85 The calculations provided as part of this application are based on the 1 in 100 year storm event plus a 20% climate change allowance which is considered to be acceptable. Whilst this is noted the LLFA require the applicant to undertake a sensitivity check with a 40% climate change allowance to demonstrate how the system would function and if flooding were to occur; that this would be able to be safely managed. Furthermore LLFA advises that revised discharge rates are required as the proposed calculations would result in the system not functioning. There are also concerns that the proposed discharge rate of the network would raise maintenance and blockage issues and therefore the applicant strongly recommended to reconsider this. At present, the applicant has provided a quick storage estimate for storage calculation, however this cannot be relied on for the final design.

- 9.86 Calculations are also required with regard to the proposed drainage system and it demonstrating that it can contain up to the 1 in 30 storm event without flooding and manage any onsite flooding. In addition to a 1 in 100 climate change storm event being safely contained on site. These calculations must include details of critical storm durations, and demonstrate how the proposed system will function during different storm events. Furthermore, if flooding occurs within a 1 in 100 year plus climate event details will be required to show the location and volume of the flooding.
- 9.87 The proposed development intends to connect into an existing surface water drainage network. From the calculations provided the existing surface water drainage (Tesco) is likely to flood and therefore the additional flow created from the increased permeable paving demonstrate that this it likely to flood the wider network. The applicant may wish to liaise with the network owner (Tesco) to discuss the possibility of upgrading the wider drainage network in order to reduce surface water flooding to both existing and proposed development within the wider site.
- 9.88 The water quality measures including petrol interceptors which are to be incorporated into the proposed surface water drainage scheme are considered to be favourable. The LLFA requires the applicant to considered the incorporation of SuDs components such as Type C permeable paving, active rainwater harvesting and green roofs; providing justification if these have been discounted.
- 9.89 To ensure the proposal complies with the policy requirements of policy I3 & I5 of the BNDP, details of rainwater collection and sewage management can be secured via a condition. Overall, subject to conditions securing the outstanding matters of concern, the proposed development is considered to comply with policies I3 & I5 of BNDP, would be resilient to climate change and flooding and would accord with the advice within the NPPF.

- ***Supporting high quality communications***

- 9.90 Paragraph 114 of the NPPF requires LPA's to ensure that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
- 9.91 The proposed development is to be located near to existing built development and therefore the erection of a drive-thru restaurant, in this location and the scale proposed, is considered unlikely to have any adverse interference upon any nearby broadcast and electronic communication services as a result of the development. The proposal is therefore considered to accord with the advice within the NPPF.

- ***Impact on Residential Amenity***

- 9.92 The NPPF at paragraph 127 sets out guiding principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. AVDLP policy GP.8 states that permission for development will not be granted where unreasonable harm to any aspect of the amenities of nearby residents would outweigh the benefits arising from the proposal.
- 9.93 The proposed development is to be located within a predominately commercial area. Whilst this is noted, there are residential properties within the vicinity of the site to the north beyond the A421 and to the south-east on the opposite side of the A413 (London Road). Due to the proposed spacing and separation distance between these residential properties and the proposed drive-thru restaurant the proposed development is considered not to result in any significant harm in respect of overlooking, shadowing or loss of privacy. In

addition Environmental Health raised no objections to the proposed development with regard to noise, smell or any other nuisances, nor do they wish for any conditions to be imposed with regard to these matters. As such, there are considered not to be any planning reasons to prevent this business from operating on a 24 hour basis. The proposal is therefore considered to accord with policy GP8 of AVDLP and the advice within the NPPF.

- ***Other Matters***

9.94 All of the remaining matters raised by third party representations fall outside of the planning remit and therefore cannot be taken into account in the determination of this application:

- Loss of Property Value
- Litter
- Vermin
- Health Issues

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

### **DETERMINATION OF PLANNING APPLICATIONS**

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

### **HUMAN RIGHTS ACT 1998**

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

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

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

### **SECTION 17 CRIME AND DISORDER ACT 1998**

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

### **EQUALITY ACT 2010**

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

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