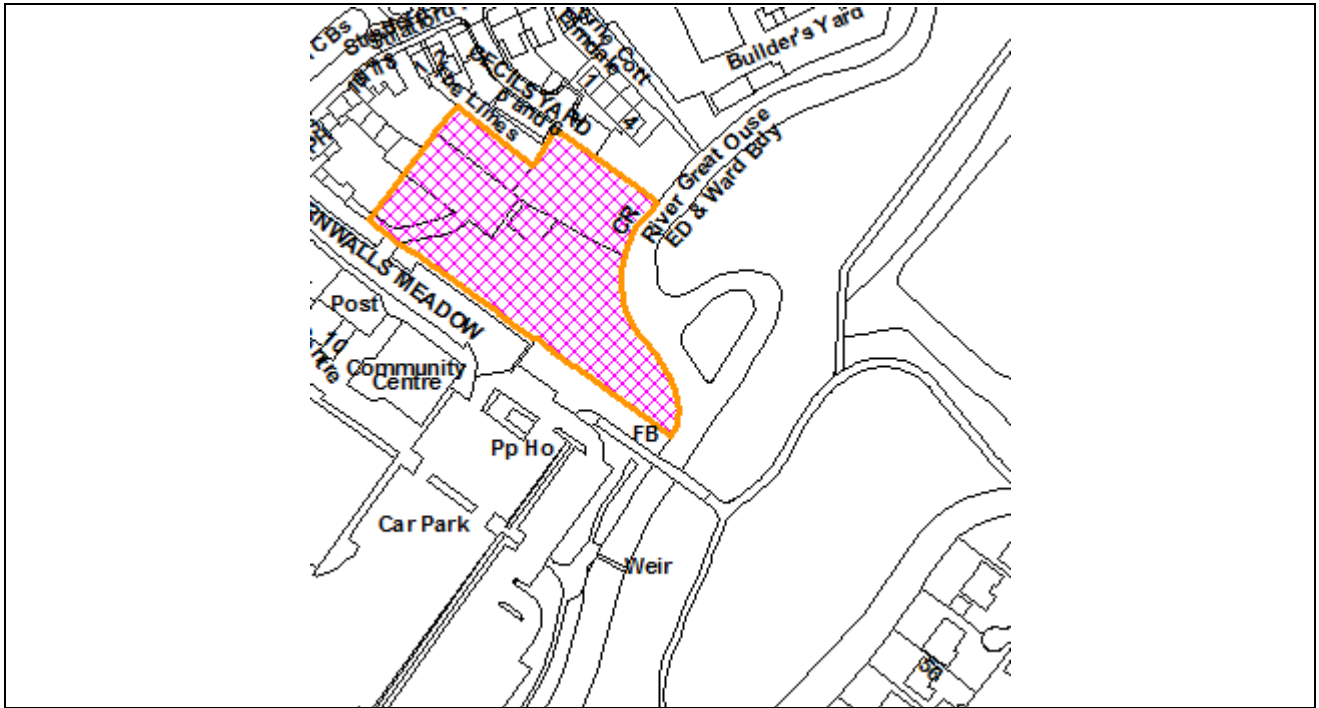


16/03302/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
16/03302/APP	BUCKINGHAM	12/09/16
PROVISION OF A 61 BEDROOM CARE HOME WITH 14 ASSISTED LIVING APARTMENTS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING.	The Local Member(s) for this area is/are: - Councillor T Mills Councillor S Cole	
LAND REAR OF THE GRAND JUNCTION PUBLIC HOUSE HIGH STREET, MK18 1NT		
MR DAVE LADHAR		
STREET ATLAS PAGE NO. 41		

**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 in light of the new NPPF.**

**b) Other matters**

**The recommendation is that permission be GRANTED as the S106 agreement has now been completed subject to conditions**

**1.0 INTRODUCTION**

- 1.1 Members will recall considering this application at the Strategic Development Management Committee on the 20th June 2018 when it was decided that following the completion of a legal agreement to secure the accommodation for occupiers 55yrs and over; a financial contribution towards the footway/cycle link to the Riverside walk; a financial contribution towards the Buckingham Transport Strategy; SUDS provision and maintenance and a financial contribution towards leisure facilities that the officers could determine the application.
- 1.2 The S106 agreement has now been completed and secures the matters agreed at the Strategic Development Management Committee.
- 1.3 Since the application was considered by the committee the new NPPF was published on 24 July 2018 and supersedes the guidance set out in the NPPF 2012 previously considered in the officer's report and related overview report. Given the specific circumstances of the application, that the original decision on the application was subject to a judicial review challenge and the decision quashed as outlined in the 20<sup>th</sup> June 2018 officer report, rather than proceeding to determine the scheme under delegated powers, it was considered pertinent to return to Strategic Development Management Committee with an update to consider the revised policies in the new NPPF. This report will consider the relevant policies in the NPPF arising from this proposal and confirm whether the

development plan policies are consistent with the NPPF and refer to paragraph 11 which revises the 2012 paragraph 14.

- 1.5 The overview report has been updated and provides an overview of the policy framework to reflect the new NPPF and is attached to this report. This also provides an update on the housing land supply position and the progress on the emerging local plan. Members are also asked to refer to the previous reports and corrigenda relating to this application, a copy of which is attached.

## **2.0 CONCLUSION AND RECOMMENDATION**

- 2.1 As stated in the previous report the proposal complies with the relevant saved policies of the BNDP and AVDLP policies, except for AVDLP policies GP53 and RA13. Taking the plan as a whole, the proposal is considered not to be in accordance with the development plan. However, it is considered that material considerations justify the grant of permission in this case.
- 2.2 The NPPF sets out that the presumption applies if policies that are most important are out-of-date. The Council considers that it would be appropriate to accept that in this case, the presumption in favour of sustainable development applies. Whilst the new NPPF advises that made neighbourhood plan policies take precedent over existing non strategic policies in the local plan, RA13 is still part of the development plan and is considered as out of date for the reasons set out in the overview report. As set out above it is relevant to consider the application in the light of paragraph 11d)i. and ii. of the NPPF as one of the most important policies is out of date, namely AVDLP policy RA13. Turning first to paragraph 11 d)i of the NPPF 2018 it is noted that designated heritage assets and areas at risk of flooding continue to be referred to and apply to the scheme.
- 2.3 With regards to the impact on designated heritage assets outlined in the previous report in spite of the considerable importance and weight to be given to the harm to the conservation area, officers remain of the view that the level of harm to the setting of the conservation area is at the lower end of the spectrum of less than substantial harm. In weighing the harm against the public benefits, as required in the NPPF, which include:
- contribution to housing of the 14 assisted living apartments which is a public benefit;
  - the economic benefits arising from the creation of job during construction and operation of the care home and the contribution to the local economy which is a public benefit;
  - the provision of elderly accommodation is a public benefit;
  - benefits to the natural environment including tree planting and biodiversity enhancement which are visible to the public and positively contribute to the environment and regarded as public benefits of the proposal; and
  - sympathetic design of the proposal again visible to the public and regarded as a public benefit of the proposal,
- it is considered that the public benefits of the scheme set out above outweigh the less than substantial harm to the conservation area (when considered with the considerable importance and weight to be attached to such harm). Irrespective of whether or not 'moderate' or 'considerable' weight is attached to the economic benefits of the scheme, it is considered that cumulatively the public benefits of the proposal as outlined in the original reports and corrigenda are considered to outweigh the low level of less than substantial harm to the CA. In this respect there are not clear reasons to refuse the development proposed on heritage grounds.
- 2.4 Turning then to the areas at risk of flooding officers remain of the view that whilst the site is in a location at risk of flooding as referred to in footnote 6, the conclusion in the report on flood risk, climate change, and sustainable drainage is that there is an absence of harm on this matter. In this respect there are not clear reasons to refuse the development proposed on flood risk grounds.

- 2.5 Therefore in respect of paragraph 11 d)i. there is no clear reason to refuse the development proposed.
- 2.6 In then considering paragraph 11 d) ii this wording is consistent with the tilted balance previously set out in paragraph 14 of the 2012 NPPF in the previous reports and corrigenda considered by the Strategic Development Management Committee. It should be noted that the assessment, recommendation and committee resolution has considered the proposal in both scenarios for the avoidance of any doubt, applying the tilted and non-tilted balance to the assessment. Therefore, the changes between the respective versions of the NPPF to the presumption in favour of sustainable development as discussed above do not otherwise change the previous assessment and concluding planning balance.
- 2.7 This report demonstrates that the changes in circumstances since the application was considered by Committee could not justifiably alter the conclusion that the proposals constitute a sustainable and acceptable development. In this instance it is considered that the planning balance exercise is not affected by the change in circumstances to arrive at a different conclusion and recommendation to that which the committee previously considered and resolved to agree.
- 2.8 In view of this it is recommended that permission be **GRANTED** as the S106 agreement has now been completed 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 development hereby permitted shall only be carried out in accordance with the following plans: Prefix N81-2438-PL: 001; 002; 003; 004; 005; 006; 007; 008; 009; 010; 011; 951-03-B

Reason: To ensure a satisfactory form and appearance to the development and to comply with policy GP35 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 samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials. Please also see note no. 5.

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

4 No development shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, driveways and courtyards have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials. Please also see note no. 5.

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP35 of Aylesbury

5 No development shall take place on the building(s) hereby permitted until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; where relevant, and other minor structures to be installed thereon. For soft landscape works, contours for all landscaping areas, together with planting plans and schedules of trees and plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment). 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 GP9 and GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

6 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.

7 No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for their approval a tree protection plan showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained. This shall comprise 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.

No site clearance works or the development itself shall be commenced until such a scheme is approved by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with that scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

1. There shall be no changes in ground levels;
2. No materials or plant shall be stored;
3. No buildings or temporary buildings shall be erected or stationed unless these are elements of the agreed tree protection plan.
4. No materials or waste shall be burnt nor within 20 metres of any retained tree; and.
5. 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 the Buckingham Neighbourhood Development Plan, policy GP38 of the 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

8 No development shall take place on the building(s) hereby permitted until details of all screen and boundary walls, fences and any other means of enclosure have been 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 buildings hereby approved shall not be occupied until the details have been fully implemented.

Reason: To ensure that the details and appearance of the development are acceptable to the Local Planning Authority and to comply with policy GP35 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

9 No development shall take place until details of the proposed slab levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the Local Planning Authority, with reference to fixed datum point. The building(s) shall be constructed with the approved slab levels. Please also see note no. 6.

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.

10 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. Please also see note no. 6.

Reason: In the interests of the visual amenity and ecology and to comply with policy DHE2-5 of the Buckingham Neighbourhood Development Plan and policy GP8 and GP35 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

11 The details of the proposed cycle storage shall be submitted for approval in writing prior to commencement. The development shall be carried out only in accordance with the approved details prior to occupation and thereafter maintained for the lifetime of the development.

Reason: To encourage the reduction of car usage and to promote the availability of cycling opportunities and to comply with policy GP24 of the Aylesbury Vale District Local Plan and to accord with the National Planning Policy Framework.

12 The details of bin and recyclates storage shall be submitted for approval in writing prior to commencement. The development shall be carried out only in accordance with the approved details prior to occupation and thereafter maintained for the lifetime of the development.

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

13 Prior to commencement a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. Construction shall not be carried out otherwise than in accordance with the details to be approved in writing, including:

- a. parking and turning for vehicles of site personnel, operatives and visitors;
- b. loading and unloading of plant and materials
- c. piling techniques if necessary;
- d. storage of plant and materials;
- e. programme of works (including measures for traffic management and operating hours);
- f. provision of boundary hoarding and lighting;
- g. protection of important trees, hedgerows and other natural features;
- h. details of proposed means of dust suppression and noise mitigation;
- i. details of measures to prevent mud from vehicles leaving the site during construction.
- j. details of the storage of spoil or other excavated or deposited material on the site, including the height of such storage above either natural ground level or the approved ground level.

Reason: To minimise danger and inconvenience to highway users and to safeguard the amenities of neighbouring residential amenity and to comply with policies GP8 and GP95 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework. Details must be approved prior to the commencement of development to mitigate nuisance and potential damage which could occur in connection with development.

14 The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to comply with the National Planning Policy Framework.

15 A 10m ecology buffer zone adjacent to the River Ouse shall be retained in which no construction works shall occur including formal landscaping. Ecological enhancement features incorporating artificial bat and bird boxes shall be provided into the fabric of the building. A Landscape and ecological enhancement plan detailing the 10m buffer zone, bat and bird boxes features and landscape proposals including management needs to be produced and approved by the AVDC Ecologist. The condition will be considered discharged following a written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly.

Reason: To comply with policies DHE1-5 of the Buckingham Neighbourhood Development Plan and the requirements of the National Planning Policy Framework, The Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981 (as amended).

16 A pre-commencement badger survey will be required prior to any ground works commencing on site to ensure this species will not be impacted as a result of the works. The survey should be passed to the AVDC Ecologist for approval before any ground works can commence and needs to be carried out by a competent ecological consultant in line with CIEEM guidelines.

Reason: In accordance with the Protection of Badgers Act 1992 and to comply with policies DHE1-5 of the Buckingham Neighbourhood Development Plan and the National Planning Policy Framework.

17 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, 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:

- Discharge rate to be restricted to 3.2l/s up to the 1 in 100 year plus a 40% allowance for climate change
- Discharge volumes
- Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
- SuDS components agreed in the outline application
- Full construction details of all SuDS and drainage 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 climate change storm event should be safely contained on site.
- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.
- Flow depth
- Flow volume
- Flow velocity
- Flow direction

Reason: The reason for this pre-start condition is to ensure that a sustainable drainage strategy has been agreed prior to construction in accordance with Paragraph 103 of the National Planning Policy Framework to ensure that there is a satisfactory solution to managing flood risk.

18 Development shall not begin until a "whole-life" maintenance plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented in accordance with the approved details.

Reason: The reason for this being a pre-start condition is to ensure that maintenance arrangements have been arranged and agreed before any works commence on site that might otherwise be left unaccounted for and to comply with the National Planning Policy Framework.

19 Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority to demonstrate that the Sustainable Urban Drainage System has been constructed as per the agreed scheme.

Reason: To ensure the Sustainable Drainage System is designed to the technical standards and to comply with the National Planning Policy Framework.

20 The proposed development shall be implemented in full in accordance with the measures outlined in the FRA, Ref 1539-01, prepared by Richard Hall, dated 20 January 2017 prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme set out in the FRA .

Reason: To ensure flood risk is reduced for the development and future occupants and to comply with the National Planning Policy Framework..



21 There shall be no ground raising within Flood Zone 3 unless an evidence based review is undertaken and a floodplain compensation scheme is submitted to and approved in writing by the LPA.

Reason: To prevent the increased risk of flooding to third parties and to comply with the National Planning Policy Framework..

22 No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

The archaeological investigation should be undertaken by a professionally qualified archaeologist working to a brief issued by ourselves and take the form of an archaeological excavation and to comply with the National Planning Policy Framework..

Reason: To address potential impact to archaeological remains pursuant to the National Planning Policy Framework .

23 Prior to the commencement of the development the new access to Cornwall's Meadows shall be constructed in accordance with plans to be submitted to and approved by the Local Planning Authority. The access shall be constructed in accordance with; 'Buckinghamshire County Council's Guidance note, "Private/Commercial/Industrial 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 National Planning Policy Framework.

24 Prior to the commencement of the development minimum vehicular visibility splays of 45m from 2.4m from the back edge of the footway from both sides of the new access onto Cornwall's Meadows shall be provided in accordance with plans to be submitted to and approved by the Local Planning Authority. Visibility splays shall be kept clear from any obstruction between 0.6m and 2.0m above ground level.

Reason: To provide adequate visibility 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 National Planning Policy Framework.

25 Prior to the commencement of the development pedestrian inter-visibility splays of 2m by 2m shall be provided on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. The area contained within the pedestrian visibility splays shall be kept clear of any obstruction between 0.6m x 2.0m above ground level.

Reason: To provide adequate inter-visibility 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 National Planning Policy Framework..

26 The development shall not begin until provision has been made to accommodate all site operatives', visitors' and construction vehicles loading, off-loading, hoarding and parking and turning within the site during the construction period in accordance with a Construction Management Plan to be submitted and agreed in writing by the Local Planning Authority. (It is noted that part of this included in the Transport Assessment and would just need to be adapted to provide a formal separate document)

Reason: To minimise danger and inconvenience to highway users and to comply with the National Planning Policy Framework.

27 Prior to the commencement of the development, details of drop kerbs shall be submitted for approval in writing by the local planning authority. The drop kerbs shall subsequently be implemented in accordance with the approved details.

Reason: To provide satisfactory pedestrian links and access for users of the development and to comply with the National Planning Policy Framework.

28 The premises shall only be used for a residential care home and 14 assisted living apartments and for no other purpose(s) [including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification] .

Reason: For the avoidance of doubt and in accordance with policy HP5 of the Buckingham Neighbourhood Development Plan, policy GP24 of the Aylesbury Vale District Local Plan and to accord with the National Planning Policy Framework.

Informative(s)

1 It is contrary to section 163 of the Highways Act 1980 for surface water from private development to drain onto the highway or discharge into the highway drainage system. The development shall therefore be so designed and constructed that surface water from the development shall not be permitted to drain onto the highway or into the highway drainage system.

2 It is an offence under s. 151 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 8137 of the Highways Act 1980.

4 The attention of the applicant is drawn to the requirements of Section 60 of the Control of Pollution Act 1974 in respect of the minimisation of noise on construction and demolition sites. Application, under Section 61 of the Act, for prior consent to the works, can be made to the Environmental Services Division of the Council.

5 Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required if protected habitats or species are affected by development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0118 958 1222.

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6 The planting season is from October through to the following March unless otherwise specified.

7 If during development works contamination is encountered which has not been previously identified please contact the Environmental Health department immediately at [envhealth@aylesburyvaldc.gov.uk](mailto:envhealth@aylesburyvaldc.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.

8 You are advised that Planning Obligations have been entered into in connection with this permission.

9 The existing building to be demolished may contain asbestos. Please refer to the asbestos pages of the Health and Safety Executive for more information at: <http://www.hse.gov.uk/asbestos/>

10 Under the terms of the Environmental Permitting Regulations (EPR), a permit may be required from the Environment Agency for any proposed works or structures in, under, over or within 8 metres from the top of the bank of the River Great Ouse, which is designated a 'main river'.

The EPR are a risk-based framework that enables us to focus regulatory effort towards activities with highest flood or environmental risk. Lower risk activities will be excluded or exempt and only higher risk activities will require a permit. Your proposed works may fall under either one or more of the below:

- Exemption
- Exclusion
- Standard Rules Permit
- Bespoke permit.

Information on how to apply for a permit and application forms can be found on our website at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Any application for a permit should be submitted to the following email address: [PSO-Brampton@environment-agency.gov.uk](mailto:PSO-Brampton@environment-agency.gov.uk)

Anyone carrying out a flood risk activity without a permit where one is required, is breaking the law.

11 The applicant should sign up to our free flood warning service. The service offers three levels of flood warning and can give the applicant vital time to prepare their property for flooding. Warnings can be received by telephone, fax, text message, pager and email. To sign up call Floodline on 0345 988 1188 or visit [www.gov.uk/flood](http://www.gov.uk/flood)

We operate a flood warning system for existing properties currently at risk of flooding to enable householders to protect life or take action to manage the effect of flooding on property. Floodline Warnings Direct (F.W.D.) is a national system run by us for broadcasting flood warnings. Receiving the flood warnings is free; the applicant can choose to receive the flood warning as a telephone message, email, fax or text message. To register contact details, please call Floodline on 0345 988 1188 or visit [www.gov.uk/flood](http://www.gov.uk/flood)

12 An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol/oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

13 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:-

Development Management, 6th Floor, County Hall, Walton Street, Aylesbury,  
Buckinghamshire HP20 1UY  
Telephone 0845 2302882

14 The applicant is advised that a licence 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 period of 28 days must be allowed for the issuing of the licence, please contact the Bucks County Council Transportation Services, Aylesbury Vale Area Office, The Winslow Centre, Park Road, Winslow, Bucks, MK18 3RB on Telephone No. 0845 2302882 for further information.

15 The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding, skip or any other device or apparatus for which a licence must be sought from the Highway authority. A period of 10 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for further information:- Bucks CC Transportation, Aylesbury Vale Area Office, The Winslow Centre, Park Road, Winslow, MK18 3RB Tel: 01296 383400

16 Highways Authority - Scaffolding Erection  
The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding, skip or any other device or apparatus for which a licence must be sought from the Highway authority. A period of 10 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for further information:- Bucks CC Transportation, Aylesbury Vale Area Office, The Winslow Centre, Park Road, Winslow, MK18 3RB Tel: 01296 383400

### **3.0 EVALUATION**

#### ***The planning policy position and the approach to be taken in the determination of the Application in light of the new NPPF***

##### *The NPPF 2018*

- 3.1 The new NPPF was published on 24 July 2018 and supersedes the guidance previously considered in the officer report, corrigendum and related overview report. The overview report has been updated and provides an overview of the key matters to reflect the new NPPF and is attached to this report. This also provides an up date on the housing land supply position and the progress on the emerging local plan.
- 3.2 The presumption in favour of sustainable development is now set out in paragraph 11 and there are changes to the wording of the paragraph compared to paragraph 14 of the 2012 NPPF that have implications to the determination of this application.

3.3 The paragraph now sets out that:

*“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, 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; 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”.**

3.4 The policies referred to in ‘d’i are to be found in footnote 6, which states:

*“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.”*

3.5 It is noted that designated heritage assets and areas at risk of flooding continue to be referred to and apply to the scheme.

3.6 Consideration therefore needs to be given to this and the decision taking approach as set out in the NPPF 2018. In addition it is necessary to consider the new NPPF policies, the consistency of the development plan policies with the new NPPF and whether this leads to any different conclusions to that previously reached.

3.7 The previous report quotes the following policies as relevant to the determination of the application:

- Buckingham Neighbourhood Development Plan (BNDP): HP1, HP4, HP5, HP7, DHE1, DHE2, DHE4, DHE5, DHE6, CLH2, I3, I4, I5, EE3, EE5
- AVDLP 2004: RA13, GP2, GP8, GP24, GP35, GP45, GP39, GP40, GP53, GP86, GP87, GP88, GP94

3.8 These are relevant development planning policies which are considered against the NPPF 2018 and are discussed in more detail below.

*The principle of development and consideration of Class C2 care home and assisted living apartments*

3.9 NPPF para 7 states that *“The purpose of the planning system is to contribute to the achievement of sustainable development.”* Para 8 further states that *“Achieving sustainable development means that the planning system has three overarching objectives”* which includes *“...b) a social objective – to support strong, vibrant and healthy communities, by*

*ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations...*

3.10 The 2018 NPPF continues to put great emphasis on the delivery of homes to meet need.

3.11 NPPF Ch 5 'Delivering a sufficient supply of homes' states at para 59:

*"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."*

3.12 NPPF para 85 *support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should include allocating a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary and recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.*

3.13 In addition to the NPPF additional government guidance has been provided in relation to housing for the elderly which recognises the contribution of housing provided for older people, including residential institutions in Use Class C2, to the housing requirement. The previous report included the self contained element of the assisted living apartments in relation to the application of the policies having regard to the particulars of this specific proposal.

3.14 Having regard to the new policies in the 2018 NPPF, it is considered that policies HP1, HP7 and EE5 of the BNDP continues to be consistent with the NPPF so that it should continue to be afforded full weight. It is considered that there is no conflict with these BNDP policies. As set out in the attached overview report AVDLP policy RA13 remains to be considered to be out of date for the reasons given and very limited weight is still applied to RA13. Whilst the new NPPF advises that made neighbourhood plan policies take precedent over existing non strategic policies in the local plan, RA13 is still part of the development plan and is considered as out of date for the reasons set out in the overview report. It is considered that the changes in the NPPF and the consistency of policies with the new NPPF does not change the conclusions on the assessment of the proposal against the these policies and the proposal complies with the NPPF and government guidance.

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

#### ***Sustainable location***

3.15 The governments view of sustainable development is set out in the over view report. It is considered that the conclusions reached that this is a sustainable location are not changed having regard to the new NPPF.

#### ***Build a strong competitive economy***

3.16 The government remains committed to securing and supporting sustainable economic growth, and the previous conclusions that this proposal would bring economic benefits in terms are not changed having regard to the new NPPF.

#### ***Deliver a wide choice of high quality homes***

- 3.17 The NPPF refers to achieving sustainable development including the social objective of supporting “...*strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs...*”The 2018 NPPF continues to put emphasis on delivery of a variety of homes that need to meet the varying needs of specific groups.
- 3.18 NPPF Ch5 para 59 seek sufficient land to come forward to meet the needs of groups with specific housing requirements. Para 61 considers the need in the context of size, type and tenure of the housing needed for different groups which should be assessed and reflected in planning policies. Where affordable housing is needed, NPPF para 62 states that the type of affordable housing should be specified in policy.
- 3.19 The 2018 NPPF continues to put great emphasis on affordable housing delivery. The NPPF indicates that affordable housing should not be sought for residential developments that are not major development (Para 63).
- 3.20 Para 64 states:
- “Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*
- a) provides solely for Build to Rent homes;*
  - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
  - c) is proposed to be developed by people who wish to build or commission their own homes; or*
  - d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.”*
- 3.21 Whilst the NPPF does not define in b) precisely what this would include it is considered that in this instance the 10% requirement should not be applied.
- 3.22 In ‘Identifying land for homes’ NPPF para 68 notes that small and medium sized sites can make an important contribution to meeting the housing requirements including “...*c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes...*”
- 3.23 Having regard to the new policies in the 2018 NPPF, it is considered that Policy HP4, HP5 and HP7 of the BNDP and GP2 of AVDLP continues to be consistent with the NPPF so that they should continue to be afforded full weight. It is considered that the changes in the NPPF and the consistency of policies with the new NPPF does not change the conclusions on the assessment of the proposal against these policies and the proposal complies with the NPPF and government guidance.

### **Promoting sustainable transport**

- 3.24 The overview report sets out the relevant policies and the NPPF continues to ensure 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.

- 3.25 Having regard to the new policies in the 2018 NPPF, it is considered that policy GP24 of AVDLP continues to be consistent with the NPPF so should continue to be afforded full weight. It is considered that the changes in the NPPF and the consistency of policy with the new NPPF does not change the conclusions on the assessment of the proposal against these policies that the proposal would not have an adverse impact on highway safety or convenience and the proposal complies with the NPPF and government guidance.

### ***Conserving and Enhancing the Natural Environment***

- 3.36 The NPPF continues to emphasize that the planning system should contribute to and enhance the natural environment. In terms of consideration of impact on the natural environment regard must be had as to how the development would contribute to the natural 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. NPPF para 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by amongst other things, *“a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);”*
- 3.27 As a point of clarification In regards to previous officer report paras 7.8 (AVDC Ecology officer consultee response) and 9.49-56 in relating to the consideration of biodiversity, it should be noted that the applicant has provided a detailed Landscape and Ecological Enhancement Plan (Apr 2018) which sets out the measures that will be established on site to ensure the development demonstrates net ecological gains as required under NPPF. The measures detail four objectives:
1. Create new ecologically valuable habitats within the scheme.
  2. Enhance the site for protected species and species of principle importance for conservation.
  3. Removal of invasive species.
  4. Monitor the establishment and condition of habitats and wildlife installations
- 3.28 Having regard to the new policies in the 2018 NPPF, it is considered that DHE1, DHE2, DHE4 and DHE5 of the BNDP and GP35, GP39 and GP40 of AVDLP continues to be consistent with the NPPF so that they should continue to be afforded full weight. It is considered that the changes in the NPPF and the consistency of policies with the new NPPF does not change the conclusions on the assessment of the proposal in relation to the impact on landscape, biodiversity including achieving a net gain, trees and contamination against these policies and the proposal complies with the NPPF and government guidance.

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

- 3.29 Planning decisions should aim to achieve healthy, inclusive and safe places in accordance with paragraph 91 of the NPPF and they should provide the social, recreational and cultural facilities and services the community needs. 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. NPPF para 127 states that planning policies and decisions should ensure that developments, amongst other things, *“f) 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[46]; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*



- 3.30 Accompanying Footnote 46 references *“Planning policies for housing should make use of the Government’s optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.”*
- 3.31 Having regard to the new policies in the 2018 NPPF, it is considered that Policy DHE6 and CLH2 of the BNDP and GP35, GP45, GP86-88 and GP94 of AVDLP continues to be consistent with the NPPF so that it should continue to be afforded full weight. It is considered that the changes in the NPPF and the consistency of policies with the new NPPF does not change the conclusions on the assessment of the proposal against these policies and the proposal complies with the NPPF and government guidance.

### ***Achieving well designed places***

- 3.32 Paragraph 124 sets out 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. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.”* The overview report sets out the detailed considerations for well designed places.
- 3.33 Having regard to the new policies in the 2018 NPPF, it is considered that policy GP35 continues to be consistent with the NPPF so that it should continue to be afforded full weight. It is considered that the changes in the NPPF and the consistency of policies with the new NPPF does not change the conclusions on the assessment of the proposal on design and the proposal complies with the NPPF and government guidance.

### ***Conserving & Enhancing the Historic Environment***

- 3.34 A positive strategy under paragraph 185 of the NPPF is required for the 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.
- 3.35 The new NPPF paragraph 190-195 requires the significance of the designated asset, the weight to be given to any substantial harm to or loss of such asset, reflecting the previous advice in paragraphs 132-135 of the NPPF 2012.
- 3.36 Paragraph 196 states:
- “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 3.37 Para 197 states:
- “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

3.38 The previous SDMC officer's report at paras 1.1, 1.3, 9.82 (and the clarifying corrections referred to in the officer's corrigendum report to committee) referred to the consistency of policy GP53 of AVDLP with the previous version of the NPPF and given the provisions of the new NPPF, still considers it not to be fully consistent for the reasons given and very limited weight is applied to GP53. It is considered that there is no material change to the conclusions on the assessment of the proposal relating to heritage impact set out in the previous report.

### **Meeting the Challenge of Flood Risk & Climate Change**

- 3.39 The NPPF continues to seek to meet the challenge of flooding. NPPF ch14 and the subsection 'Planning and flood risk' paras 155 to 165 consider the approach to this challenge in more detail. Paragraph 155 states: *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere."* Para 157 still requires a *sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:* amongst other things *"(c) using opportunities provided by new development to reduce the causes and impacts of flooding (where appropriate through the use of natural flood management techniques);"*
- 3.40 Paragraph 163 of the NPPF requires new development to ensure that flood risk is not increased elsewhere. Where appropriate applications should be accompanied by a site specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b) the development is appropriately flood resistant and resilient;
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d) any residual risk can be safely managed; and
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 3.41 Para 165 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
- 3.42 Paragraphs 158-160 set out the requirements and for sequential and exceptions tests which closely follow the advice previously set out in paragraphs 99-103 of the NPPF 2012.
- 3.43 Having regard to the new policies in the 2018 NPPF, it is considered that Policy I3, I4 and I5 of the BNDP continues to be consistent with the NPPF so that it should continue to be afforded full weight. It is considered that the proposed development will be resilient to climate change and flooding in accordance with these policies and the NPPF and there is no material change to the conclusions on the assessment of the proposal in the previous report.

### **Impact on residential amenities.**

- 3.44 The NPPF at paragraph 127 sets out guiding principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 3.45 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.
- 3.46 It is considered that the changes in the NPPF and the consistency of policy GP8 with the new NPPF does not change the conclusions on the assessment of the proposal against the these policies and the proposal complies with the NPPF and government guidance.
- 3.47 Having regard to the new policies in the 2018 NPPF, it is considered that Policy GP35 continues to be consistent with the NPPF so that it should continue to be afforded full weight. It is considered that there is no material change to the conclusions on the assessment of the proposal against this policy in the previous report.

### ***Making efficient use of land***

- 3.48 The effective use of land is referred to in the updated overview report and it is considered that given the character and patterns of development in the area, the urban design and design principles of the proposal including the extent of site coverage the proposal would 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 and takes 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. This is addressed in the original report.

### ***Developer Contributions***

- 3.49 The NPPF continues to set out the expectations for the seeking of planning obligations (Chapter 3) and also in the continuing to promote healthy and safe communities including provision for open space and recreation which is important to health and wellbeing (Chapter 8) and reflect the CIL tests and regulations which were set out in the previous report. The requirements set out at 9.111 of the previous report are still relevant and consistent with the NPPF and the S106 has now been completed and meets the CIL regulations and new NPPF.

### ***Supporting high quality communications***

- 3.50 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. This is a new section in the NPPF which was not previously considered.
- 3.51 Given the 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.

### **Out-of-date**

- 3.52 Consideration needs to be given to whether the tilted balance in paragraph 11d applies. It is clear that there are relevant development plan policies that restrict the development. The Council's view is that the question here is whether the policies in the development plan which are most important for determining the application are out-of-date.
- 3.53 It is considered that a number of policies as set out above are not out of date, AVDLP policy RA.13 is out-of-date for the reasons stated. As set out above whilst the NPPF at paragraph 30 states that policies in a made neighbourhood plan takes precedence over existing non strategic policies in the local plan policy RA13 still remains part of the development plan and given that it relates to housing development it is considered that it would be appropriate to regard this as one of the most important policies.
- 3.54 Furthermore it was previously found that the policy GP53 of AVDLP is not fully consistent with the NPPF 2012 and as set out above this remain the position with regard to consistency with the 2018 NPPF.
- 3.55 The NPPF sets out that the presumption applies if policies that are most important are out-of-date. The Council considers that it would be appropriate to accept that in this case, the presumption in favour of sustainable development applies, and paragraph 11d i and ii should be considered. This is considered in the conclusion at the beginning of this report.

#### Update on housing land supply

- 3.56 The latest position is set out in the overview report. Therefore, there is no change to consideration of the contribution that the proposal would make to the housing supply of the District and the weight attributable to it. In respect of Housing Land Supply (HLS), based on the best available information as of June 2018, the 5 year housing land supply position now stands at 11.7 years, as compared to 9 years at the time the committee considered the application. It is considered that there is a 3 year supply which is of relevant in light of the made neighbourhood plan which is recently made. Further still, the new NPPF which was published 24 Jul 2018 changes the approach to calculating HLS.
- 3.57 Although the council is considering the implications of the latest NPPF on HLS, the initial view is the council will continue to maintain over a 3 year and a 5yr supply.

#### **Other matters**

#### Update on the emerging local plan: The Vale of Aylesbury Local Plan (VALP)

- 3.58 The overview report sets out the latest position in relation to the emerging local plan, the stage it has reached and the weight to be afforded to the policies. The Inspectors interim findings have been received, however a number of queries have been raised with the Inspector and his final interim findings are awaited. The policies are still afforded limited weight at this stage for the reasons set out in the updated overview report.

#### Call in request

- 3.59 The council was advised by the national casework unit (NCU) that a request had been made by a third party for the secretary of state to call in the application. The NCU have now confirmed that the application will not be called in by the secretary of state and the council is at liberty to determine the application.

#### Land ownership

- 3.60 The application has been submitted by a Crown Care Developments, however members' attention is drawn to the fact that the application relates to land to provide the vehicular crossover which is owned by Aylesbury Vale District Council.

3.61 Members of the planning committee are advised that whilst AVDC has an interest in the land (as landowner), the council (AVDC) are the local planning authority with responsibility for regulating the development of land. Members are advised of the need to consider planning applications under the legislative framework, in coming to a decision on the proposals, and can only determine the proposals on the basis of the relevant planning issues.

#### **4.0 WORKING WITH THE APPLICANT/AGENT**

4.1 In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant and has focused on seeking solutions to the issues arising from the development proposal. In this case, the discussions took place with the applicant/agent which resulted in amended plans being submitted and which were found to be acceptable and approval is recommended.

#### **5.0 EQUALITY DUTY AND HUMAN RIGHTS**

5.1 In line with the Public Sector Equality Duty the council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). The application provides care for the elderly to meet the needs of this group and no discrimination or inequality would arise from the proposal.

11.2 In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impact have been considered, with particular reference to Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.

11.3 The Human Rights Act 1998 does not impair the right of the state to make decisions and enforce laws as deemed necessary in the public interest. The recommendation is considered appropriate in upholding the council's adopted and emerging policies and is not outweighed by any engaged rights.

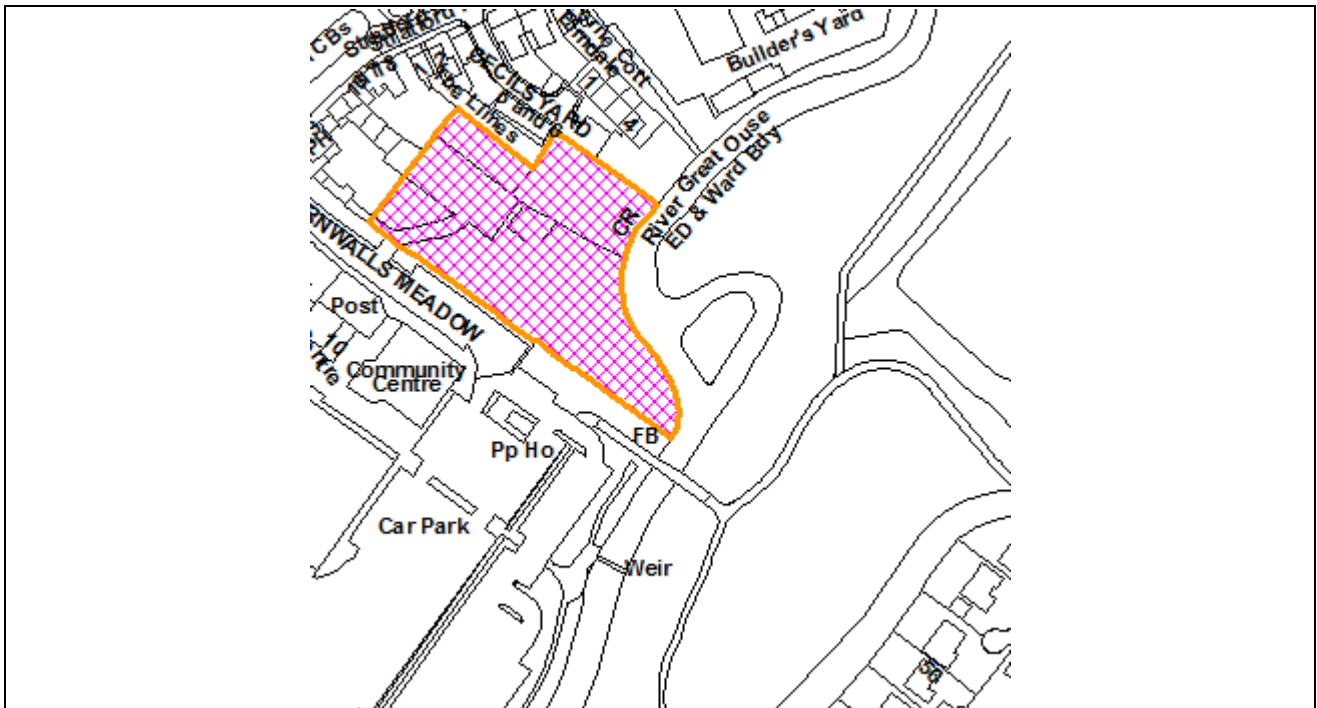
Case Officer: Jason Traves

Telephone No: 01296 585858

# APPENDIX A

## REPORT TO COMMITTEE 20.6.18 AND CORRIGENDUM TO THE REPORT

16/03302/APP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
16/03302/APP	BUCKINGHAM	12/09/16
PROVISION OF A 61 BEDROOM CARE HOME WITH 14 ASSISTED LIVING APARTMENTS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING.	The Local Member(s) for this area is/are: - Councillor T Mills Councillor S Cole	
LAND REAR OF THE GRAND JUNCTION PUBLIC HOUSE HIGH STREET, MK18 1NT		
MR DAVE LADHAR		
STREET ATLAS PAGE NO. 41		

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

- a) The planning policy position and the approach to be taken in the determination of the application.
- b) Whether the proposal would constitute a sustainable form of development:
- Building a strong competitive economy
  - Delivering a wide choice of high quality homes
  - Promoting sustainable transport
  - Conserving and enhancing the natural and historic environment
  - Promoting healthy communities
  - Good design
  - Meeting the challenge of climate change and flooding
- c) Impact on landscape and existing residential amenity.
- d) Developer contributions

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

**1.0 CONCLUSION AND RECOMMENDATION**

- 1.1 The application has been evaluated against the Development Plan and the NPPF and the Authority has assessed the application against the core planning principles of the NPPF and whether the proposals deliver sustainable development'. With regard to s. 38(6) of

the Planning and Compulsory Purchase Act 2004, the report identifies that the proposal complies with the relevant saved policies in BNDP and AVDLP, except for policy RA.53 and RA.13. Taking the plan as a whole, the proposal is considered to not be in accordance with the development plan.

- 1.2 However, it is considered that material considerations justify the grant of permission in this case.
- 1.3 First, the two policies of the plan which are contravened should be given limited weight. Policy RA.53 is to be given limited weight] because it is inconsistent with the NPPF by failing to incorporate the balancing test contained in paragraph 134. Policy RA13 is to be given very limited weight because it is out of date against the NPPF and inconsistent with the NPPF's objectives.
- 1.4 Second, with regard to paragraph 14 of the NPPF, relevant policies for the supply of housing (RA13 and BU1) are out of date for the reasons given in the overview report and there are no specific policies relating to a care home. Paragraph 14 is therefore engaged.
- 1.5 Paragraph 14 of the NPPF requires that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies of the NPPF taken as a whole or specific policies in the NPPF indicate development should be restricted. Footnote 9 sets out examples including those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion. Because of the existence of heritage assets in proximity to the site, footnote 9 applies. It has been made clear in the *Hopkins Homes v. Secretary of State for Communities and Local Government* and *East Staffordshire District Council v. Secretary of State for Communities and Local Government* [2017] EWCA 893 that para. 14 is re-engaged if the balance under para.134 is in favour of the development.
- 1.6 In respect of conserving and enhancing built environment, the development has been considered in the context of the setting of the listed public house and the character of the conservation area and its setting, which are heritage assets. Consideration has also been given to the impact on non-designated heritage assets. The report identifies that the impact on the setting of the listed building, a designated heritage asset, is preserved and not harmed, and that the impact on non-designated heritage assets is preserved and not harmed, and archaeological interests are preserved with a recording condition. Special regard has been given to the statutory test of preserving or enhancing the character or appearance of the conservation area. Whilst concern has been raised on the impact of some views, given the large extent of the Conservation Area, it must be noted that the affected area is relatively small in the context of the whole conservation area, and so it is the contribution that this small portion makes to the understanding of the historic development of the town as a whole and therefore the character of the conservation area which must be considered. The impact on account of the scale and mass has been minimised through the design. It is considered that there would be less than substantial harm caused by the proposal on the conservation area albeit that this is at the low end of the spectrum. Under paragraph. 134 of the NPPF a balance must struck between this less than substantial harm to the setting of the conservation area – which is to be given considerable importance and weight and amounts to a strong presumption against development (set out in *R (Leckhampton Green Land Action Group) v. Tewkesbury District Council* [2017] EWHC 198 [30]) - and the public benefits of the proposal.
- 1.7 The development would make a contribution to the housing land supply in the form of the assisted living apartments which is a benefit to the proposal in the planning balance,



although this benefit would be tempered given the small number of units, and therefore amount to limited weight in the overall planning balance. The NPPF makes it clear that boosting the supply of housing is a key policy objective nationally and locally. There would also be economic benefits in terms of the construction of the development, its operation and those associated with the resultant increase in local population to which moderate weight is attached. In respect of conserving and enhancing the natural environment, the proposal provides enhancements to the site in the form of additional tree planting to compensate for a lesser number of low quality category trees as well as generally siting the development in such a way as to minimise the loss of vegetation and impact to the setting and views from the River Great Ouse and views towards the site from the east. The scheme will further secure bat and bird boxes by condition in the interests of biodiversity. This should be afforded limited positive weight.

- 1.8 In respect of good design, the scheme responds to the surrounding scale and character and materials, provides convenient and suitably located points of access and circulation to high quality accommodation. The design provides for passive surveillance and defensible separation and planting and a secure development to mitigate against safety, security and crime issues. This should be afforded limited positive weight.
- 1.9 Compliance with some of the other core planning principles of the NPPF have been demonstrated in terms of archaeological impact mitigation, promoting sustainable transport, preserving residential amenities, promoting healthy communities and meeting the challenge of climate change and flooding. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm.
- 1.10 Following paragraph 134 of the NPPF, the benefits and adverse impacts are carefully weighed in the planning balance and it is considered that the public benefits of the scheme set out above outweigh the less than substantial harm to the conservation area (when considered with the considerable importance and weight to be attached to such harm).
- 1.11 Officers consider that whilst the site is in a location at risk of flooding as referred to in footnote 9, the conclusion in the report on flood risk, climate change, and sustainable drainage is that there is an absence of harm on this matter.
- 1.12 Officers have considered the question of whether the site meets the policies in the NPPF concerning flooding on a neutral basis (i.e. not a tilted balance). Officers are satisfied that those policies are met on a non-tilted balance.
- 1.13 Given the above conclusions in respect of paragraph 134 and the flood risk policies, the application may be considered in accordance with the tilted balance. This means that permission should be granted unless any adverse impacts of doing so would "significantly and demonstrably" (*our emphasis*) outweigh the benefits. Officers do not consider that any impacts of this development would significantly and demonstrably outweigh the benefits.
- 1.14 These material considerations are considered to justify the development in spite of the contravention of the development plan.
- 1.15 The claimants have argued during the judicial review that the tilted balance in paragraph 14 should not be applied irrespective of the consideration of the impact on heritage assets. Officers consider that even if the tilted balance is not applied, permission should be granted. The proposal would still be consistent with the NPPF., It would accord with the BNDP and the bulk of AVDLP policies. Those local plan policies which are contravened should be given limited weight for the reasons stated above. In spite of the considerable importance and weight to be given to the harm to the conservation area, officers consider that the positive factors in support of the development outweigh the harm caused by it. Therefore, it is recommended that, even without applying the tilted balance planning permission should be granted.
- 1.16 A S106 has been completed which secures the accommodation restricted to occupiers 55years and over with provision of minimum 2hrs of care per week, on-site SuDS provision and maintenance, financial contributions towards off site leisure and inclusion of

sustainable highway measures; any permission to be subject to such conditions as are considered necessary.

1.17 In view of this it is recommended that permission be GRANTED subject to the following conditions:

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

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

2 The development hereby permitted shall only be carried out in accordance with the following plans: Prefix N81-2438-PL: 001; 002; 003; 004; 005; 006; 007; 008; 009; 010; 011; 951-03-B

Reason: To ensure a satisfactory form and appearance to the development and to comply with policy GP35 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 samples/details of the materials proposed to be used on the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials. Please also see note no. 5.

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

4 No development shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, driveways and courtyards have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials. Please also see note no. 5.

Reason: To ensure a satisfactory appearance to the development and to comply with policy GP35 of Aylesbury

5 No development shall take place on the building(s) hereby permitted until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; where relevant, and other minor structures to be installed thereon. For soft landscape works, contours for all landscaping areas, together with planting plans and schedules of trees and plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment). 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 GP9 and GP35 of Aylesbury Vale District Local Plan and the National Planning Policy Framework.

6 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.

7 No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for their approval a tree protection plan showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained. This shall comprise 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.

No site clearance works or the development itself shall be commenced until such a scheme is approved by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with that scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

1. There shall be no changes in ground levels;
2. No materials or plant shall be stored;
3. No buildings or temporary buildings shall be erected or stationed unless these are elements of the agreed tree protection plan.
4. No materials or waste shall be burnt nor within 20 metres of any retained tree; and
5. 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 the Buckingham Neighbourhood Development Plan, policy GP38 of the 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

8 No development shall take place on the building(s) hereby permitted until details of all screen and boundary walls, fences and any other means of enclosure have been 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 buildings hereby approved shall not be occupied until the details have been fully implemented.

Reason: To ensure that the details and appearance of the development are acceptable to the Local Planning Authority and to comply with policy GP35 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

9 No development shall take place until details of the proposed slab levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the Local Planning Authority, with reference to fixed datum point. The building(s) shall be constructed with the approved slab levels. Please also see note no. 6.

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.

10 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. Please also see note no. 6.

Reason: In the interests of the visual amenity and ecology and to comply with policy DHE2-5 of the Buckingham Neighbourhood Development Plan and policy GP8 and GP35 of the Aylesbury Vale District Local Plan and the National Planning Policy Framework.

11 The details of the proposed cycle storage shall be submitted for approval in writing prior to commencement. The development shall be carried out only in accordance with the approved details prior to occupation and thereafter maintained for the lifetime of the development.

Reason: To encourage the reduction of car usage and to promote the availability of cycling opportunities and to comply with policy GP24 of the Aylesbury Vale District Local Plan and to accord with the National Planning Policy Framework.

12 The details of bin and recyclates storage shall be submitted for approval in writing prior to commencement. The development shall be carried out only in accordance with the approved details prior to occupation and thereafter maintained for the lifetime of the development.

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

13 Prior to commencement a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. Construction shall not be carried out otherwise than in accordance with the details to be approved in writing, including:

- a. parking and turning for vehicles of site personnel, operatives and visitors;
- b. loading and unloading of plant and materials
- c. piling techniques if necessary;
- d. storage of plant and materials;
- e. programme of works (including measures for traffic management and operating hours);
- f. provision of boundary hoarding and lighting;
- g. protection of important trees, hedgerows and other natural features;
- h. details of proposed means of dust suppression and noise mitigation;
- i. details of measures to prevent mud from vehicles leaving the site during construction.
- j. details of the storage of spoil or other excavated or deposited material on the site, including the height of such storage above either natural ground level or the approved ground level.

Reason: To minimise danger and inconvenience to highway users and to safeguard the amenities of neighbouring residential amenity and to comply with policies GP8 and GP95 of

the Aylesbury Vale District Local Plan and the National Planning Policy Framework. Details must be approved prior to the commencement of development to mitigate nuisance and potential damage which could occur in connection with development.

14 The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to comply with the National Planning Policy Framework.

15 A 10m ecology buffer zone adjacent to the River Ouse shall be retained in which no construction works shall occur including formal landscaping. Ecological enhancement features incorporating artificial bat and bird boxes shall be provided into the fabric of the building. A Landscape and ecological enhancement plan detailing the 10m buffer zone, bat and bird boxes features and landscape proposals including management needs to be produced and approved by the AVDC Ecologist. The condition will be considered discharged following a written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly.

Reason: To comply with policies DHE1-5 of the Buckingham Neighbourhood Development Plan and the requirements of the National Planning Policy Framework, The Conservation of Habitats and Species Regulations 2010, and the Wildlife and Countryside Act 1981 (as amended).

16 A pre-commencement badger survey will be required prior to any ground works commencing on site to ensure this species will not be impacted as a result of the works. The survey should be passed to the AVDC Ecologist for approval before any ground works can commence and needs to be carried out by a competent ecological consultant in line with CIEEM guidelines.

Reason: In accordance with the Protection of Badgers Act 1992 and to comply with policies DHE1-5 of the Buckingham Neighbourhood Development Plan and the National Planning Policy Framework.

17 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, 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:

- Discharge rate to be restricted to 3.2l/s up to the 1 in 100 year plus a 40% allowance for climate change
- Discharge volumes
- Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
- SuDS components agreed in the outline application
- Full construction details of all SuDS and drainage 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 climate change storm event should be safely contained on site.
- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.

- Flow depth
- Flow volume
- Flow velocity
- Flow direction

Reason: The reason for this pre-start condition is to ensure that a sustainable drainage strategy has been agreed prior to construction in accordance with Paragraph 103 of the National Planning Policy Framework to ensure that there is a satisfactory solution to managing flood risk.

18 Development shall not begin until a "whole-life" maintenance plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented in accordance with the approved details.

Reason: The reason for this being a pre-start condition is to ensure that maintenance arrangements have been arranged and agreed before any works commence on site that might otherwise be left unaccounted for and to comply with the National Planning Policy Framework.

19 Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority to demonstrate that the Sustainable Urban Drainage System has been constructed as per the agreed scheme.

Reason: To ensure the Sustainable Drainage System is designed to the technical standards and to comply with the National Planning Policy Framework.

20 The proposed development shall be implemented in full in accordance with the measures outlined in the FRA, Ref 1539-01, prepared by Richard Hall, dated 20 January 2017 prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme set out in the FRA .

Reason: To ensure flood risk is reduced for the development and future occupants and to comply with the National Planning Policy Framework..

21 There shall be no ground raising within Flood Zone 3 unless an evidence based review is undertaken and a floodplain compensation scheme is submitted to and approved in writing by the LPA.

Reason: To prevent the increased risk of flooding to third parties and to comply with the National Planning Policy Framework..

22 No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

The archaeological investigation should be undertaken by a professionally qualified archaeologist working to a brief issued by ourselves and take the form of an archaeological excavation and to comply with the National Planning Policy Framework..

Reason: To address potential impact to archaeological remains pursuant to the National Planning Policy Framework .

23 Prior to the commencement of the development the new access to Cornwalls Meadows shall be constructed in accordance with plans to be submitted to and approved by the Local Planning Authority. The access shall be constructed in accordance with; 'Buckinghamshire County Council's Guidance note, "Private/Commercial/Industrial 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 National Planning Policy Framework.

24 Prior to the commencement of the development minimum vehicular visibility splays of 45m from 2.4m from the back edge of the footway from both sides of the new access onto Cornwalls Meadows shall be provided in accordance with plans to be submitted to and approved by the Local Planning Authority. Visibility splays shall be kept clear from any obstruction between 0.6m and 2.0m above ground level.

Reason: To provide adequate visibility 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 National Planning Policy Framework.

25 Prior to the commencement of the development pedestrian inter-visibility splays of 2m by 2m shall be provided on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. The area contained within the pedestrian visibility splays shall be kept clear of any obstruction between 0.6m x 2.0m above ground level.

Reason: To provide adequate inter-visibility 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 National Planning Policy Framework..

26 The development shall not begin until provision has been made to accommodate all site operatives', visitors' and construction vehicles loading, off-loading, hoarding and parking and turning within the site during the construction period in accordance with a Construction Management Plan to be submitted and agreed in writing by the Local Planning Authority. (It is noted that part of this included in the Transport Assessment and would just need to be adapted to provide a formal separate document)

Reason: To minimise danger and inconvenience to highway users and to comply with the National Planning Policy Framework.

27 Prior to the commencement of the development, details of drop kerbs shall be submitted for approval in writing by the local planning authority. The drop kerbs shall subsequently be implemented in accordance with the approved details.

Reason: To provide satisfactory pedestrian links and access for users of the development and to comply with the National Planning Policy Framework.

28 The premises shall only be used for a residential care home and 14 assisted living apartments and for no other purpose(s) [including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification] .

Reason: For the avoidance of doubt and in accordance with policy HP5 of the Buckingham Neighbourhood Development Plan, policy GP24 of the Aylesbury Vale District Local Plan and to accord with the National Planning Policy Framework.

Informative(s)

1 It is contrary to section 163 of the Highways Act 1980 for surface water from private development to drain onto the highway or discharge into the highway drainage system. The development shall therefore be so designed and constructed that surface water from the development shall not be permitted to drain onto the highway or into the highway drainage system.

2 It is an offence under s. 151 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 8137 of the Highways Act 1980.

4 The attention of the applicant is drawn to the requirements of Section 60 of the Control of Pollution Act 1974 in respect of the minimisation of noise on construction and demolition sites. Application, under Section 61 of the Act, for prior consent to the works, can be made to the Environmental Services Division of the Council.

5 Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required if protected habitats or species are affected by development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0118 958 1222.  
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6 The planting season is from October through to the following March unless otherwise specified.

7 If during development works contamination is encountered which has not been previously identified please contact the Environmental Health department 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.

8 You are advised that Planning Obligations have been entered into in connection with this permission.

9 The existing building to be demolished may contain asbestos. Please refer to the asbestos pages of the Health and Safety Executive for more information at: <http://www.hse.gov.uk/asbestos/>

10 Under the terms of the Environmental Permitting Regulations (EPR), a permit may be required from the Environment Agency for any proposed works or structures in, under, over or within 8 metres from the top of the bank of the River Great Ouse, which is designated a 'main river'.



The EPR are a risk-based framework that enables us to focus regulatory effort towards activities with highest flood or environmental risk. Lower risk activities will be excluded or exempt and only higher risk activities will require a permit. Your proposed works may fall under either one or more of the below:

- Exemption
- Exclusion
- Standard Rules Permit
- Bespoke permit.

Information on how to apply for a permit and application forms can be found on our website at: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.

Any application for a permit should be submitted to the following email address: PSO-Brampton@environment-agency.gov.uk

Anyone carrying out a flood risk activity without a permit where one is required, is breaking the law.

11 The applicant should sign up to our free flood warning service. The service offers three levels of flood warning and can give the applicant vital time to prepare their property for flooding. Warnings can be received by telephone, fax, text message, pager and email. To sign up call Floodline on 0345 988 1188 or visit [www.gov.uk/flood](http://www.gov.uk/flood)

We operate a flood warning system for existing properties currently at risk of flooding to enable householders to protect life or take action to manage the effect of flooding on property. Floodline Warnings Direct (F.W.D.) is a national system run by us for broadcasting flood warnings. Receiving the flood warnings is free; the applicant can choose to receive the flood warning as a telephone message, email, fax or text message. To register contact details, please call Floodline on 0345 988 1188 or visit [www.gov.uk/flood](http://www.gov.uk/flood)

12 An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol/oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.

13 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:-

Development Management, 6th Floor, County Hall, Walton Street, Aylesbury,  
Buckinghamshire HP20 1UY  
Telephone 0845 2302882

14 The applicant is advised that a licence 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 period of 28 days must be allowed for the issuing of the licence, please contact the Bucks County Council Transportation Services, Aylesbury Vale Area Office, The Winslow Centre, Park Road, Winslow, Bucks, MK18 3RB on Telephone No. 0845 2302882 for further information.

15 The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding, skip or any other device or apparatus for which a licence must be sought from the Highway authority. A period of 10 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for further information:- Bucks CC Transportation, Aylesbury Vale Area Office, The Winslow Centre, Park Road, Winslow, MK18 3RB Tel: 01296 383400

#### 16 Highways Authority - Scaffolding Erection

The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding, skip or any other device or apparatus for which a licence must be sought from the Highway authority. A period of 10 days must be allowed for the issuing of the licence, please contact the Area Manager at the following address for further information:- Bucks CC Transportation, Aylesbury Vale Area Office, The Winslow Centre, Park Road, Winslow, MK18 3RB Tel: 01296 383400

## **2.0 INTRODUCTION**

- 2.1 This application was considered by the Strategic Development Management Committee on 17 May 2017 when it was resolved that the application be deferred and delegated to officers for approval following the receipt of satisfactory completion of a legal agreement and planning permission was subsequently granted on 25 October 2017.
- 2.2 Following the District Council's decision to grant planning permission a legal challenge was made by a third party interest who applied to the High Court for a judicial review of the planning permission. The claimant was granted permission to proceed on 4 December 2017 the Council conceded by sealed consent order dated 26 January 2018 that the Claimant's application for judicial review should be allowed on ground 1 that AVDC did not apply paragraph 134 of the NPPF having concluded that the proposal would cause less than substantial harm to heritage assets. It was accepted that AVDC failed to undertake the planning balance contained in paragraph 134 (ie: to weigh less than substantial harm to a heritage asset against public benefits), and the decision quashed. The council did not concede ground 2 which sought to argue that the council wrongly concluded that the presumption in favour of sustainable development applied under paragraph 14 of the NPPF.
- 2.3 The application needs to be determined by committee as the Town Council has raised material planning objections and confirms that it will speak at the Committee meeting.

## **3.0 SITE LOCATION AND DESCRIPTION**

- 3.1 The site is 0.559Ha, is bound by Cornwalls Meadow car park to the south west, the River Great Ouse to the east and properties fronting Stratford House to the northwest and Cecil's Yard to the north. The site is occupied by single storey brick building which is currently vacant with forecourt parking. The majority of the site is open and vegetated including mature trees.
- 3.2 The site is located with the Buckingham Conservation area, within identity area no. 1 'Market Square, Market Hill and the Bull Ring, the Cattle Market, North End Square,

Buckingham Hospital and the north-western side of the High Street, Stratford Road and the south-eastern side of the High Street and Moreton Road’.

- 3.3 The site is situated in the archaeological area ‘Buckingham Town Historic Core’.
- 3.4 There are no listed buildings within the site boundary, however the following listed buildings are nearest to the application site:
- The Grand Junction PH, 13 High Street – Grade II listed
  - No 8 High Street – Grade II listed
- 3.5 The site is located within the ‘Town Centre’ Character Area of the Buckingham Neighbourhood Development Plan (BNDP) and is specifically identified as a proposed car park in the site designations (pages 26, 27 & 54). In addition to parking, the BNDP specifically identifies that the site should accommodate a seating and picnic area and an extension to the riverside walk (Para 9.20). Charity cycling bins (for personal items including clothes, shoes, books, DVDs, video games etc) are located on the bend of Cornwalls Meadow.

#### **4.0 PROPOSAL**

- 4.1 The application involves the demolition of the existing structures and construction of a 61 bedroom Care Home with 14 Assisted Living apartments with associated access, parking for 27 cars including 2 no. accessible spaces and landscaping.
- 4.2 The main entrance and managers office is accessed via a new vehicle crossover onto Cornwalls Meadow, through the forecourt parking on the south east of the site. The existing vehicular access point behind the public house is retained and shared, for servicing via a newly created turning head. The care home kitchen and bin store are accessed directly via this servicing point.
- 4.3 The proposed accommodation comprises of 61 bedrooms, each with ensuite shower wet rooms. Some ground floor rooms have private outdoor terraces and some upper floor bedrooms have balconies. The 14 no 2-bed and 3-bed assisted living apartments are fully self contained with their own kitchen and bathroom facilities and some with private terraces and balconies. All bedrooms and flats have access to the facilities provided, including the bar/lounge/library area at ground floor and the roof terrace, salon/spa and gym/cinema room at third floor.
- 4.4 The 3 to 4 storey building is sited in the north western half of the site. A façade of brick and some rendered elements and pitched tile roofs are broken down into a series of elements, reflecting a terrace. This is punctuated by projecting bay and windows and French door Juliette balconies. The building is set behind a landscaped border and private amenity terraces. It should be noted that the 14 perpendicular public parking spaces are retained in situ along the frontage of the site.
- 4.5 Outdoor communal spaces are located adjacent to the communal lounge as well as on the northern edge of the site. The south eastern half of the site adjacent the River Great Ouse is retained as a soft landscaped area.
- 4.6 As part of the reconsideration of the application since the JR challenge, the following documents have been received:
- Addendum to Planning Statement – Feb 2018
  - Addendum to the Flood Risk Assessment - Apr 2018
  - Arboricultural report - May 2018
  - Ecological Appraisal – Apr 2018

- Addendum to Ecological Appraisal ['3 Tests', Habitats Directive and Regulations] – May 2018
- Landscape and ecological Enhancement Plan – Apr 2018
- Biodiversity Protection Measures to be Integrated with the Construction Environmental Management Plan – Apr 2018

## 5.0 RELEVANT PLANNING HISTORY

- 5.1 02/03043/APP - Erection of 41 bedroom hotel with associated car parking and access – Approved 05.06.2003
- 5.2 Consideration has been given to the EIA Regulations and it is considered that the scheme does not exceed the criteria for an 'Urban Development Project': or in a defined sensitive area. Therefore, there is no requirement to screen as the proposal does not constitute 'EIA development' as defined and as such not expressly addressed in the case officer committee report.

## 6.0 PARISH/TOWN COUNCIL COMMENTS

- 6.1 BTC objection for the following reasons in comments received Oct 2017 and reiterated Jan 2017:
- Although the town centre location is suitable for a care home, the site is located in the floodplain, as are two existing sheltered housing complexes [Unspecified]
  - Site was not allocated for housing in the Neighbourhood Plan as the preferred use is for an extension to the car park with permeable surfacing an open space adjacent the river
  - Notes that the ADDC comments to the BNDP acknowledged a possible alternative use for retail or other employment
  - The submitted flood survey omits the July 2007, 2012 and 2016 flooding incidents which show substantial flooding of the site
  - Reference made to a recent application for public toilets on the site of the recycling point on the bend of Cornwalls Meadow was dismissed by the District Council on the grounds of safety for pedestrians crossing the car parking entrance; residents the current application would be at more risk
  - Reference made to the alternative new sites for the recycling point including the BT compound, disabled parking bays behind Waitrose and Verney Close woodland.
- 6.2 Additional comments received May 2017:

### *“OPPOSE & ATTEND*

*Though the revised FRA was welcomed, Members would not revise their response as the application was still contrary to policies EE5 and CLH8 of the Neighbourhood Plan; was still to house vulnerable elderly people in a flood risk area, contrary to NPPF; would be difficult and risky to evacuate in a flood emergency; would increase the flood risk to other properties, both residential and commercial; and the principal access had already been decreed too dangerous for pedestrian traffic by the Planning Authority in relation to the proposed siting of public toilets at this point.*

*Members also discussed the most recent response from the BCC SUDS officer which requested that a whole life maintenance and management plan for the SUDS system be included in the s106 agreement rather than as a planning condition, to give it weight and*

*ensure its continuance over the lifetime of the development. The view was that s106 agreements should be a quid pro quo to balance the negative effects of a development on the whole community, not a means of enforcement on an individual property owner.”*

6.3 Additional comments also received in May 2017:

**“OPPOSE & ATTEND**

*Members criticised a document issued only on 27th April 2017 which included in its tables many sites already approved for development, and especially those built out and occupied years previously, like Candleford Court on Bridge Street and Fir Cottage on Chandos Road. This gave a misleading impression of the number of sites considered. Several of the sites were misplaced on the keyed map. The care home/medical centre site at Lace Hill - part of its s106 agreement – was dismissed because of its proximity to a petrol station (level of traffic) when the applicants were proposing siting a care home to the rear of a nightclub beside the access road to the town's main car park.*

*Concern remained about the displacement of excess water to other premises; Candleford Court also had an attenuation pond, but ever since the land had been built on puddling had been noted in Verney Close woodland, where it had never been seen before except when the river actually overtopped the banks; building in the floodplain clearly affected the groundwater drainage. Both the new access and the proposed path to the green bridge were on AVDC land, and it was assumed that this had been sold or leased to the applicant. The question was asked whether this meant AVDC had an interest in approving the application for pecuniary advantage.”*

6.4 BTC further indicated in May 2018 objected and wished to attend any committee meeting, raising the following issues:

- Noted the additional information and oppose the scheme
- Querying if an evacuation plan had been prepared and agreed by the emergency services, noting a separate unrelated site was not supposed to flood and had
- Noted two other recent care hoem approval and if the application was required and if this was in the sequential test
- Questioned the biodiversity report given the obvious errors [Not specified]
- Unclear if the riverside area was open to the public, access being advocated and in the event of land to the east being development [Land not specified], an extension to the Riverside Walk could be included
- Regarding the Addendum Planning Statement: AVDC has indicated it has a 5yr supply; RA14 is not applicable to this site; using the 2002 approval for the hotel to establish the principle is disingenuous, before any restruiction fo building in the floodplain came into effect and the hotel was a smaller footprint and further up the site
- Parking: Parking for doctors, nursing and other staff is needed; and given the available bus services, staff will drive and it will be inequitable for them to have to pay for parking and put pressure on existing provision

## **7.0 CONSULTATION RESPONSES**

7.1 Contaminated Land: Original comments: No objection and suggest an informative is added to the decision regarding previously unidentified contamination in the course of work

7.2 Environmental Health: Original and subsequent comments: No objection

7.3 BCC Transport: Original comments: No objection subject to conditions regarding the accessway, visibility splays for vehicles and pedestrians, drainage design details, and construction management plans as well as s106 contributions towards the following:

- Contribution towards the footway/cycleway link to provide access to the Riverside Walk
- £72,000 towards the Buckingham Transport Strategy town centre elements to mitigate the impact of the development on the town centre highway network

7.4 Environment Agency: Original comments: No objection subject to conditions requiring the development to be implemented in accordance with the flood risk assessment (FRA), and no ground raising in flood zone 3 without approval of a flood plain compensation scheme and subject to AVDC acceptance of a flood Sequential Test as well as an Exceptions Test where necessary.

7.5 Archaeology: Original comments: Recommends and appropriately worded condition for an archaeological investigation report including recording, publication and archiving of results to address potential impact to archaeological remains in accordance with NPPF para 141.

7.6 SUDs: No objections subject to conditions requiring approval of a surface water drainage scheme, approval of a management plan for the scheme, and approval of engineering certification of the construction of the scheme in accordance with the details approved by the council.

7.7 Canal and River Trust: Original comments: Advised that there is no requirement to consult the authority

7.8 Biodiversity: Original comments: Recommends the following conditions:

- Retention and management of and supporting ecological statement detailed enhancements for a 10m buffer to the River Great Ouse to be secured by condition
- Provision of at least 10 no. bat boxes and 12 no. swift boxes to be incorporated into the scheme to be secured by condition

Subsequent comments: Advice that the Ecology Addendum responses to the 3 tests regarding impact to EPS is acceptable

7.9 Heritage: Original comments: It is considered that the proposed layout adequately reflects the historic grain and pattern of Buckingham, and that the design mitigates against harm that might have otherwise been caused by the scale of development proposed. The proposal will therefore preserve the setting of the identified listed building and the Conservation Area.

Subsequent comments: Consideration has also been given to the impact on non designated heritage assets. The report identifies that the impact on the setting of the listed building, a designated heritage asset is preserved and not harmed, and that the impact on non designated heritage assets is preserved and not harmed, and archaeological interests are preserved with a recording condition. Special regard has been given to the statutory test of preserving or enhancing the character or appearance of the conservation area. Whilst concern has been raised on the impact of some views, given the large extent of the Conservation Area, it must be noted that the affected area is relatively small in the context of the whole conservation area, and so it is the contribution that this small portion makes to the understanding of the historic development of the town as a whole and therefore the character of the conservation area which must be considered. The impact on account of the scale and mass has been minimised through the design. Regard must be paid to the less than substantial harm identified to the setting of the conservation area and weighed this against the public benefits of the proposal,

7.10 Anglican Water: Original comments: Notes that development sensitive to noise and other disturbance not be sited within 15m of the sewerage pumping station.

Subsequent comments:  
No AW assets within the site boundary  
Wastewater services

- Wastwater treatment: Fowl drainage for this site is in the catchment of Buckingham Water Recycling Centre that will have available capacity
- Sewerage network: There is available capacity and if connection is sought, the developer should serve notice under Section 106 of the Water Industry Act 1991 and AW will advise of the most suitable connection point
- Surface water disposal: The proposal does not relate to AW assets and AVDC should seek advice of the Lead Local Flood Authority (LLFA)[which is Bucks CC] and consult the EA if there is direct or indirect discharge to the watercourse. If the proposals changes and there is interaction with AW assets, then AW would wish to be reconsulted
- Trade effluent: Discharge of trade effluent from trade premises to the public sewer requires AW consent and an informative advising of this is therefore requested

7.11 Natural England: No comments to make on the scheme and referred to its Standing Advice that can be used to assess the application or consult the council's own ecology advice.

7.12 Trees: No objection subject to conditions

## 8.0 REPRESENTATIONS

8.1 In addition to neighbour letters, a site notice was posted 27.09.2016 and an the application advertised in the Bucks and Winslow Advertiser on 30.09.2016.

8.2 A total of 7 objections have been received raising the following relevant planning issues:

- Retail would be a better use of the land;
- Other housing need i.e. assisted living for young people and adults would be more suitable;
- Agree with assessment by the AVDC Ecologist;
- Scheme contravenes the Buckingham NDP [Contravention unspecified];
- Scheme ignores Buckingham NDP allocation for part of the site for picnic area *and* loss of land allocated for public benefits i.e. benches, lighting and landscaping;
- Inappropriate development for the town centre include large scope and nature;
- Inappropriate due to flood risk and flood management including impact upon surrounding properties;
- The development is over-intensive;
- Damage to an area of natural beauty;
- Built form relationship to Cecil's Yard is "untenable" [Impact unspecified];
- Traffic congestion impact;
- Amenity impact to neighbours [Impact unspecified];
- Historic interest of open land which would be impacted on by backland development; and
- Loss of a pear tree and noting earlier tree removal.

8.3 Councillor Tim Mills:

- Made Buckingham NDP should be given substantial weight as material consideration with significant weight;
- The Buckingham NDP should be given substantial weight with the site allocated as a picnic area and to extend the Riverside Walk;

- The building and parking would increase the flood risk;
- Not the correct site for elderly and infirm people;
- Traffic impact, noting the roundabout at the Old Gaol is over capacity; and
- The amenity value of the site to residents if to preserve it as an area for wildlife and an extension to the Riverside Walk.

8.4 Further comment from Cllr Tim Mills:

*“Bus Routes*

*The number of routes listed may seem impressive but they include the Silverstone UTC for students that runs twice a day Brackley school run, and surprisingly for a care home the late night "clubbers special"*

*Flooding*

*The floods of 2012 and 2016 are not mentioned, indicating a higher flood risk than mentioned.*

*Car Parking*

*The figures in para 9.35 are calculated according to the number of residents. No allowance is made for the visiting doctors, nurses etc as stated in 9.36.*

*I suggest that the committee visit the site to see how cramped and out of character the building will be on the site.”*

- 8.5 There were a number of matters raised in objections which are not material planning considerations e.g. providing a care home is short sighted when there are other needs in the town like catering for the student population; and private operators are driving trends of elderly people selling their homes and questioning the need for another care home.

## 9. EVALUATION

9.1 The main issues for Committee in determining this application are:

- a) The planning policy position and the approach to be taken in the determination of the application.
- b) Whether the proposal would constitute a sustainable form of development.
  - Build a strong competitive economy
  - Deliver a wide choice of high quality homes
  - Promoting sustainable transport
  - Conserving and enhancing the natural environment
  - Conserving and enhancing the historic environment
  - Promoting healthy communities
  - Good Design
  - Meeting the challenge of climate change and flooding
- c) Impact on residential amenities.
- d) Developer contributions

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

- 9.2 Members are referred to the Overview Report before them in respect of providing the background information to the policy framework when coming to a decision on this application.



- 9.3 The starting point for decision making is the development plan. In this case the Development Plan comprises the “saved” policies of AVDLP and the Buckingham Neighbourhood Development Plan (BNDP). 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 and the Planning Practice Guidance are both important material considerations in planning decisions. Neither change the statutory status of the Development Plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF, PPG and other material considerations. Determination of any formal application would need to consider whether the proposal constitutes sustainable development having regard to Development Plan policy and the NPPF as a whole.
- 9.4 The Buckingham Neighbourhood Development Plan: (BNDP) was made in 2015 and policies are regarded as being up to date in the context of the NPPF and the Ministerial Statement referred to in the overview report. There are a number of BNDP policies relating to housing development which are relevant to the 14 assisted living apartments but are not applicable to the C2 care home element. There are no policies which are specific to care homes.
- Policy HP1 allocates land for 617 new dwellings. The policy states that development will be supported within the boundary settlement area (shown on Fig 4.2) for new housing as shown in the site allocation plans, provided the development meets the requirements set out in the policies of this Plan. All dwelling numbers are indicative and will be reviewed at the application stage. Site J and Site G would be supported as a joint site with provision for older residents incorporated. The reserved allocated site, Site M, will only be required if one or more of the allocated sites, with a total of 80 outstanding units, is not brought forward before 2025.;
  - Policy HP4 sets out to secure a diverse housing mix. It notes that the sustainable development of a wide range of housing types, sizes and tenures, including the provision of housing that meets local needs, will be supported. On developments more than 50 dwellings in size there should be a wide mixture of types of housing from 1 to 5+ bedrooms;
  - Policy HP5 requires provision of affordable housing as part of any development of more than 25 dwellings, or on sites exceeding one hectare. The specified rate is 35%; and
  - Policy HP7 allows for windfall development, stating that small sites, of 10 dwellings or less within the settlement boundary, and including previously developed land, will be supported.
- 9.5 Other policies within the BNDP are also relevant:
- DHE1 – Protect existing trees and provision of trees in developments;
  - DHE2 – Standard of ecological information required to minimise impact on natural habitats;
  - DHE4 – Protection of movement corridors;
  - DHE5 – Biodiversity in Development Landscaping;
  - DHE6 – Provision of good quality private outdoor space;
  - CLH2 – Provision of play provision for new developments;
  - I3 – Rainwater collection;
  - I4 – Development upon floodplain
  - I5 – Sewage Management;
  - EE5 Allocation of land for town centre parking; and
  - EE3 – Development of the town centre.

*Adopted Local Plan: AVDLP:*

- 9.6 A number of saved policies within the AVDLP are listed in the overview report and are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them.. They all seek to ensure that development meets the three dimensions of sustainable development and are otherwise consistent with the core planning principles set out at paragraph 17 of the NPPF. Other policies, dealt with below, are considered to be out of date and inconsistent with the NPPF. The Council considers limited (GP53) or very limited (RA13) weight should be given to these policies.
- 9.7 As set out in the overview report, the draft Plan has now been sent to the Planning Inspector for examination and the adoption of the Vale of Aylesbury Local Plan is planned to be during 2018. Currently this document can only be given limited weight in planning decisions as it is still too early in the plan making process, however, the evidence that sits behind it remains a material consideration.

*The principle of development and consideration of Class C2 care home and assisted living apartments*

- 9.8 The application of relevant national and local plan policies to the proposal requires the consideration of the class of use as well as the detailed aspects of the proposed. The development is for a care home, being Class C2 and comprising of 61 bedrooms as well as 14 assisted living apartments. The assisted living accommodation are fully self-contained 2-bed and 3-bed units, which share the access and facilities. The occupiers of the assisted living units have care and support as part of their package, the minimum obligatory care provision being 2 hours per week. As such, the assisted living accommodation provides independent living sufficient to consider that these units are households which contribute to housing land supply. Therefore, the scheme should be assessed against policies relating to the supply of housing in relation to the proposed 14 assisted living apartments. In respect of the Buckingham NDP, although this is not a site allocated for housing in policy HP1 table 1 and the proposal exceeds the threshold for windfall sites where Policy HP7 advises that development on small sites of 10 dwellings or less, within the settlement boundary and including previously developed land will be supported, these policies do not have the effect of precluding the consideration of this application.
- 9.9 The care home element is a C2 use and does not constitute C3 “dwelling house” or form a household, and therefore, it does not fall under consideration of the housing policies. There are no specific policies in the Buckingham NDP or AVDLP that would apply to the principle. The site is a sustainable location and consideration is given to whether there are any adverse impacts considered to result from allowing the development which is of a scale and intensity that is appropriate and sustainable in this location.
- 9.10 In respect of the Buckingham NDP, the site is identified in policy EE5 ‘Allocation of land for town centre parking’, being one of 2 sites “*where the provision of town centre parking will be supported*”. Supporting text in para 9.14 states that the parking is to ensure there are facilities for visitors to the town centre and para 9.15 states that increased parking will allow the further expansion of retail provision. An additional land use criteria for the site is specified in Para 9.17 which states that the site should accommodate a seating and picnic area and an extension to the riverside walk.
- 9.11 In respect of the policy (and indeed the consideration of other alternative uses put forward by objectors), although it supports parking, the policy does not expressly preclude the consideration of other uses in this case housing for the elderly, which contributes in part to meeting housing need and elderly accommodation, with a development of this scale and intensity being appropriately located in this sustainable town centre location with no significant adverse impact identified, being in accordance with the NPPF and afforded limited positive weight.

- 9.12 In respect of the reasons for seeking the additional parking as stated in the supporting text, although the Buckingham NDP supporting text sets out a correlation between access to services within and growth of the town centre on the provision of the additional public parking, it should be acknowledged that there are alternative parking sites and the availability of alternative sustainable modes of travel to the centre including the bus and the relative accessibility to the centre by walking or bicycle, given all of Buckingham in within relative proximity.
- 9.13 Furthermore, although the site is not providing additional public parking, the scheme mitigates against impacting on public parking space availability in the area by making adequate dedicated onsite provision.
- 9.14 The applicant's planning statement makes further reference to following aspects that point to the reasonableness and likelihood that the site ought to come forward for parking at the time that the Buckingham NDP was coming forward:
- The site assessment in preparation of the plan had concluded that as the site had not been put forward for development by the owner, that it was unsuitable for progressing for housing development;
  - The site assessment made no reference to previous consent for operational development;
  - There was no supporting evidence for the requirement for additional parking;
  - No indication of how the parking would be implemented or delivered;
  - The parking may be at odds with other objectives of the neighbourhood plan, to conserve and enhance the town's historic setting, which an open expansive car park would not positively contribute to; and
  - By comparison, the scheme would provide parking in support of the proposed care home, would leave existing public car parking unaffected and propose a building that would positively contribute to the character and appearance of the conservation area.
- 9.15 Similar circumstances surrounding the ability to deliver the picnic area however, the scheme is making a s106 planning contribution to the delivery of the pedestrian and cycle link which will improve the direct and convenient access to picnicking areas in the parkland across the River Great Ouse and to off site sport and recreation..
- 9.16 It is further noted that in considering the draft neighbourhood plan, the Examiner noted in his report that:
- That as part of the examination, the Examination is required under the Town and Country Planning Act 1990 to consider that the plan must not include any provisions that preclude development. It follows therefore that any proposed use should be considered on its individual merits; the Buckingham NDP cannot exclude uses other than parking
  - *In relation to the then draft of policy EE5, the Examiner stated: "The Framework promotes the improvement of the quality of car parking in town Centres (Para 40). Whilst Policy EE5 has regard to this, there is no indication of how the sites identified "are to provide further parking provision". No detail is provided as to where the money will come from to achieve the delivery of car parking on the two identified sites."*
  - Policy EE5 was subsequently amended and in the Examiner's view, the amended policy contributed to achieving sustainable development and meets the basic conditions.
- 9.17 As such, given that Policy EE5 is merely stating that provision of town centre parking will be supported, this does not preclude consideration of other uses. Therefore, it is considered that the current application is not in conflict with the Buckingham NDP.

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

- Sustainable location

- 9.18 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 18 to 219 of the NPPF, taken as a whole (paragraph 6). The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development contained in paragraph 14.
- 9.19 It is only if a development is sustainable when assessed against the NPPF as a whole that it would be capable of benefitting from the presumption in paragraph 14 of the NPPF. The following sections of the report will consider the individual requirements of sustainable development as derived from the NPPF. The sections also address associated development plan policies.
- 9.20 Buckingham is identified in AVDLP as an Appendix 4 settlement indicating that it is considered to be appropriate to allow small-scale infill development at the settlement in accordance with saved policy RA13. Policies BU1 and BU2 relates to a housing allocation at Moreton Road and Portfields which do not relate to this site and are therefore not relevant. The overview report refers to the consistency of these policies with the NPPF and considers these to be out of date for the reasons given and very limited weight is applied to RA13..
- 9.21 The Council's Settlement Hierarchy Assessment September 2017 also identifies Buckingham as a 'Strategic Settlement' (para 6.2) being the second largest settlement (para 2.5) which is one of several small towns and rural villages (along with Winslow, Haddenham and Wendover) that play an important part in the economic and social functioning of the district whilst acting as a focal point for trade and services (para 2.6). The assessment identified Buckingham as one of the five largest settlements which typically offers a choice of shops and services, a range of employment opportunities and is well served by public transport (para 5.2). Buckingham is specifically identified as the second largest strategic settlement with branches of national retail multiples as well as having an independent university, 2 secondary schools, community hospital, indoor sports centre and strong employment base. In addition, the settlement has regular bus services to Aylesbury, Milton Keynes, Oxford and Cambridge (para 5.6). The assessment concludes that Buckingham is one of the five 'Strategic Settlements' that offer the most sustainable opportunities to accommodate future development (para 6.2).
- 9.22 It is therefore accepted firstly that Buckingham is a sustainable location to accommodate new development, and secondly that the site is highly sustainably located in relation to the close proximity of facilities and services provided in Buckingham within 400m. It is therefore considered that the site would constitute sustainable development, in locational terms, in accordance with the NPPF. The below sections will set out whether the proposals can be considered 'sustainable development' in regard to all other aspects.

### ***Build a strong competitive economy***

- 9.23 The Government is committed to securing and supporting sustainable economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
- 9.24 It is considered that there would be economic benefits in terms of the construction of the development itself, its operation creating equivalent to 110 full time jobs and the resultant increase in population contributing to the local economy. It is therefore considered the economic benefits of the scheme...

### ***Deliver a wide choice of high quality homes***

- 9.25 It should be noted that in respect of Buckingham NDP policy HP5 which seek provision of affordable housing, there is no requirement triggered by this scheme of 14 units which is below the trigger of 25 or more as well as being a site under 1Ha. BNDP policy HP5 replaces GP2 of AVDLP.
- 9.26 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. Paragraph 50 of the Framework requires that the local planning authority should plan for a mix of housing based on current and future demographic trends, and meet the needs of different groups in the community including those of older people. The NPPG supports this policy and requires that in preparing housing and economic development needs assessments, plan makers should identify the need for housing for older people. Buckingham NDP policy HP4 also seeks a range of housing types, including housing that meets local needs and the proposal would accord with this policy. The need to provide housing for older people is recognised as significant given the projected increase in the number of households aged 65 and over. Supporting the elderly and infirm to maintain independent or semi-independent living is seen as a benefit to society as it can help to reduce the costs to health and social services, and providing more options catering to this group can also free up existing houses that may be under occupied, which indicates that additional stock will become available to meet the needs of the general population.
- 9.27 The NPPG advises that future need for specialist accommodation for older people should be broken down and assessed by tenure and type (e.g. sheltered, enhanced sheltered, extra care, registered care). The assessment should set out the level of need for residential institutions (Use Class C2). The Central Buckinghamshire HEDNA predicts that the population of Central Buckinghamshire is likely to increase by between 55,800 and 64,300 persons over the 20-year period 2013 to 2033, and that the number of people aged 75 or over is likely to increase by around 29,800 persons. Based on these figures, the HEDNA calculates that for the population aged 75+ there will be a demand for 420 owned and 210 rented extra care units in the period 2013 to 2033, and a need for 80 dementia units. These figures demonstrate a clear need for extra care development in the district.
- 9.28 Acknowledging that there is a significant and growing level of demand for the type of accommodation proposed by this application, and that the proposal represents a valuable contribution to the NPPF objective of securing a wide choice of housing, this is a significant benefit. In the case of the 14 assisted living apartments which could be considered households given the independent living facilitates by the design (The units are fully self contained with their own front door) and operation (The minimum level of supporting care provision is 2 hours per week) there is a benefit of this scheme contributing to housing land supply in accordance with paragraphs 47 and 49 of the NPPF, noting the current 5 year housing land supply position (as at Oct 2016) which comprises the District's Full Objectively Assessed Need and stands at 9years, which is tempered by the scale and can be afforded limited weight..

### ***Promoting sustainable transport***

- 9.29 It is necessary to consider whether the proposed development is located where the need to travel will be minimised, the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved taking account of the principles in the NPPF Chapter 4 'Promoting Sustainable Transport.

- 9.30 As noted above Buckingham is considered to be a sustainable location for development and the application site specifically is considered to be a sustainable location with good links to the local highway network, frequent bus services, cycling, walking, shops and local amenities. The development has made appropriate provision for access, servicing, and parking. The predicted traffic generation has been considered and a planning contribution has been agreed to mitigate the scheme's impact on the Buckingham town centre. These aspects are discussed in more detail below.

#### *Public Transport*

- 9.31 There is a bus stop located on the High Street that is within 400m of the site. Services are for the following routes: 60, X60, 80, 18, 83, 131, 132, X5, 88, 151. These routes provide links locally and further afield to Milton Keynes and Aylesbury.

#### *Walking, Cycling and Access to Shops and Local Amenities*

- 9.32 The site is within the Buckingham town centre and local amenities are within 400m. All of Buckingham is within approx. 2km of the application site. The site is also located adjacent to the Riverside Walk, being the recreational walking routes along the River Great Ouse with Winslow when completed.
- 9.33 The application proposes 8 cycle spaces to be located in a lit, secure and sheltered location to accommodate staff and visitors.
- 9.34 In addition, the applicant has agreed to a s106 planning obligation to deliver an extension to the recreational cycle/pedestrian route along the River Great Ouse in the form of a pathway extension to provide an improved link from the site access to the existing path. This accords with Policy CLH8 of the BNDP which promotes the continuation and expansion of the riverside walk. The link would be 3m wide and in line with BNDP Policy L1 new disabled access requirement for new pedestrian routes.

#### *Vehicular access and servicing*

- 9.35 The existing access servicing the rear of the public house will be relocated approx. 4.5m north west and will continue to service the public house.
- 9.36 A new access point will be added on the bend of Cornwalls Meadow. The Bucks CC transport officer is satisfied that visibility splays are maximised and achievable in line with the Manual for Streets. The detailed design of the access and visibility splays would be secured by condition if the council is minded to approve the application. It is further noted that the existing recycling bins will need to be relocated to accommodate the proposed access point. The highways authority will work with the applicant to determine the best location of these bins.
- 9.37 All servicing will be undertaken on site using the proposed access and the swept path analysis shows that refuse vehicles can be accommodated on site, with access and egress in forward gear.

#### *Parking*

- 9.38 Policy GP24 of the AVDLP requires parking in accordance with the council's Supplementary Planning Guidance no. 1 'Parking Guidelines'. The SPG seeks 1 space per 4 residents in the case of the 61 care bedrooms and for the 14 no. 2-bed and 3-bed assisted living apartments, 1 space per dwelling as well as 1 visitor space for every 2 dwellings. This results in a total requirement for 36 spaces. Provision is made in the

application for 27 spaces. Although less than calculated by the SPG, the scheme nonetheless accords with the intent of the SPG for the following reasons:

- Parking standards are to be applied as maximum rather than a minimum and there is a general approach of establishing progressively lower standards in locations of greater accessibility as noted as a priority in the White Paper on Transport (para 5);
- Requiring developments to provide less parking than the standard where they are well served by public transport as in the case of this application (para 15)

- 9.39 Furthermore the Transport Assessment (pp27-28) identifies why the individual circumstances of the application that less parking is appropriate, namely:
- The likelihood of car ownership is less given the mental and physical conditions of residents in the care home;
  - On-site facilities preclude the need to travel away from the site by car i.e. food deliveries, doctors/nurses visits, medicine delivery;
  - The proximity of the town centre as well as local amenities and Buckingham in general;
  - The proximity to public transport links, specifically bus services; and
  - The impact of additional parking on the local character.
- 9.40 In terms of other aspects of parking provision, 2 spaces are allocated for people with a disability, and are conveniently located nearest to the entry foyer. A minimum 6m manoeuvring space between spaces is provided and a much more generous allowance has been afforded the majority of spaces.
- 9.42 As such, the parking provision made in the scheme is considered appropriate and acceptable in this sustainable location and would accord with policy GP24 and the SPG.. Furthermore, it is noted that the existing public parking in Cornwalls Meadow is retained.

#### *Traffic Generation*

- 9.43 The applicant has modelled the predicted traffic generation of the proposal in TRICS (Trip Rate Information Computer System) and a comparable exercise has also been undertaken by the Bucks CC transport officer to verify the results. The assessments both predict 21 no two-movements in the AM peak and 10 no. movements in the PM peak.
- 9.44 It is noted that the town centre is sensitive to additional traffic, with two junctions in close proximity to the site being critical as they operate above capacity i.e. Moreton Road – Market Square junction and the Bridge Street – West Street junction. Therefore, instead of seeking further technical review in the form of an Arcady assessment that it is already known that the junctions are operating above capacity, it has been agreed that the applicant would make a planning contribution towards the Buckingham Transport Strategy town centre elements. Mitigation in the form of a s106 planning contribution is considered acceptable on the basis that the number of trips are nonetheless considered to be low and can be accommodated rather than requiring development to be reduced.
- 9.45 Overall, it is therefore considered the site is sustainably located and it has been demonstrated that the proposal would not have an adverse impact on highway safety or convenience and would be consistent with the AVDLP policy GP24 and associated SPG and the NPPF and therefore this factor should be afforded neutral weight..

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

- 9.46 The site is located in the town centre of Buckingham. There are no specific site designations for the site or adjacent in relation to the natural environment including trees protected by TPOs, any protected fauna, nor protected landscape designations.

### *Landscape*

- 9.47 In terms of the impact on the landscape, proposals should use land efficiently. Permission will not be granted for development that impairs the character or identity of the settlement. Regard must be had to how the development proposed contributes to the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains where possible and preventing any adverse effects of pollution, as required by the NPPF. AVDLP policy GP35 is also relevant and seeks to ensure that development proposals should respect and complement features and characteristics of the site and area.
- 9.48 The proposed redevelopment and the siting of the new building has considered the existing features of the site and relationships to its surroundings including the River Great Ouse and parkland to the east. The scheme will minimise tree loss whilst proposing new compensatory tree planting to enhance the setting of the building and the soft landscape setting to the River Great Ouse and views towards the site from the east. The design of the building as discussed in more detail in the 'Good Design' section also contributes to reducing its presence and impact in the surroundings. The scheme thereby accords with Policy GP35 of the AVDLP in respecting and complimenting the natural qualities and features of the area through the siting of the building and landscaping proposal to minimise the overall visual impact of the scheme.

### *Biodiversity*

- 9.49 Policy DHE2 of BNDP seeks that development proposals should, where possible, minimise impact on natural habitats and species resulting in net gains to biodiversity, and supporting information is provided. Policy DHE3 Development affecting designated sites and local and national priority habitats species should protect the sites and wherever possible, deliver a net gain in biodiversity. In granting permission conditions may be imposed, or planning obligations sought that secure appropriate management regimes to deliver biodiversity gain in perpetuity. Policy DHE4 seeks the protection and enhancement of movement corridors, including bats, otters and water voles, preserve undeveloped buffer zones for watercourses as wildlife corridors and appropriate measures to protect wildlife relating to impact from lighting. Policy DHE5 seeks landscaping schemes to maximise benefits to biodiversity including the selective of appropriate native planting species.
- 9.50 Paragraph 109 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity where possible. Paragraph 118 of the NPPF states that when determining applications that local planning authorities should aim to conserve and enhance biodiversity by applying the principles, amongst the things, if significant harm cannot be avoided, adequately mitigated or as a last resort, compensated for then planning permission should be refused; encouraging opportunities to incorporate biodiversity in an around development.
- 9.51 The Ecological appraisal (updated April 2018) submitted with the application identified 2 non breeding, non hibernation roosts of common pipistrelle and brown long eared bats of low conservation significance. Two mature trees along the River Great Ouse have potential for bat roosts and which would be retained as part of the proposal and the report identifies a number of bat boxes on trees to compensate for the loss through demolition of the existing building.
- 9.52 Bird boxes will also be sought by condition to enhance biodiversity and to compensate for the lost nesting potential on site on account of the vegetation clearance and demolition to facilitate the development. No other species were evidence however, as a precautionary measure in the case of badgers, a pre-badger survey is recommended and will be secured



by way of condition. With regard to the impact from any lighting this can be addressed through condition requiring such detail.

9.53 Under Regulation 53(2) (e) of the Conservation of Habitats and Species Regulations 2010 (as amended), the applicant will need to acquire a mitigation licence as the development is anticipated to have impacts on European Protected Species, that would otherwise be illegal, such as: capturing, killing, disturbing or injuring them (on purpose or by not taking enough care) damaging or destroying their breeding or resting places (even accidentally), obstructing access to their resting or sheltering places (on purpose or by not taking enough care). With the requirement for the applicant to obtain an EPS Licence, the Local Planning Authority has to have regard to the three tests as set out in the Natural England Advice Note: European Protected Species and the Planning Process in respect of protected species. These three tests are:

- (i) Test 1: the consented operation must be for “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”;
- (ii) Test 2: there must be “no satisfactory alternative”; and
- (iii) Test 3: the action authorised “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”.

9.54 With regards to the three tests, the following is relevant:

- (i) Test 1: There is considered to be an overriding public interest in the provision of housing and elderly accommodation which meet an identified need which contributes to pursuing sustainable development and involves seeking positive improvements not limited to and including the widening of choice of high quality homes in accordance with NPPF para 9. Given the level of future growth envisaged for Buckingham and across Aylesbury Vale there will be a need to make efficient use of land, re use of land and release greenfield sites. There will be social and economic benefits to the public and beneficial consequences to the environment and therefore the proposal meets the imperative reasons of overriding public interest. Provision of housing is further consistent with core planning principles of NPPF para 17 that should underpin plan-making and decision-taking which states that planning should, amongst other principles, proactively drive and support sustainable economic development to deliver homes.
- (ii) Test 2: The building to be demolished is unattractive and of poor quality. This site has been assessed as being appropriate for this development and it is considered that whilst there may inevitably be sites that do not require demolition this must be considered in the context that additional accommodation is needed in Buckingham and in this instance there are no suitable available alternative sites. The site lies within the settlement boundary in the BDNP and in such close proximity to the town centre facilities and services and is highly sustainable.
- (iii) Test 3: The Council’s Biodiversity Officer is satisfied that the mitigation measures proposed by the applicant will ensure the development is not detrimental to the protected species on and around the site and suitable roosting sites will be provided within the site

9.55 NE has been consulted and advised they have no comments to make on the scheme and referred to its Standing Advice that can be used to assess the application or consult the council’s own ecology advice.

9.56 Whilst the development would constitute a material change to the baseline character of the site, the development proposal offers opportunities to secure sufficient benefits to offset the adverse effects of the change. Subject to conditions as set out above, the

application proposal accords with national planning policy and would complement the local area and conserve existing natural and other features of value as far as possible and accord with DHE 2-5 of the BNDP.

#### *Trees*

- 9.57 Buckingham NDP policy DHE1 seeks to protect existing trees as well as make provision for new planting to enhance the existing retained planting. Policies GP39 and GP40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value.
- 9.58 The proposed care home is sited on the north-west half of the site, away from the River Great Ouse, leaving a landscaped green buffer including the mature tree planting. The siting and the building and associated car parking minimises the vegetation and tree loss, being located in the area of the existing building footprint and forecourt hard stand. The supporting arboriculture assessment indicates that 13 no. trees would be removed as part of the proposal, none of which are assessed being no better than category C, being of “low quality”. The scheme compensates for this loss by proposing to plant 35 new trees, planting on the building perimeter to soften its appearance as well as further planting to enhance the landscaped area adjacent the River Great Ouse and the appearance of the development from the open parkland to the east. The proposal accords with BNDP policy DHE1 and AVDLP policies GP39 and GP40.

#### *Contamination*

- 9.59 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 121 that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions. The site is not identified as a site of previous contamination or land fill. No issues are identified by the council's Environmental Health officer who recommends that an informative be added in the case of any approval to contact the council in the event that any contamination is encountered during works.
- 9.60 It is noted that the existing shed to be demolished may contain asbestos and this will need to be dealt with appropriately, in accordance with British Standards for removal.
- 9.61 Overall it is considered that this would provide a limited positive benefit and accords with the NPPF..

#### ***Promoting healthy communities***

- 9.62 The NPPF seeks to promote healthy communities by facilitating social interaction and creating healthy, inclusive communities. This variously includes the provision of active street frontages, strong neighbourhood centres, safe and accessible developments and should include, access to high quality open spaces with opportunities for sport and recreation.
- 9.63 Policies GP86-88 and GP94 seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. public open space, leisure facilities, etc.). A financial contribution towards the provision of leisure facilities to mitigate the impact the scheme has been agreed with the applicant.
- 9.64 Buckingham NP policy DHE6 seeks provision of good quality private outdoor space where people can spend quality time, enjoy their surroundings and consider amenity to ensure a good living standard for future users and neighbours

- 9.65 Pursuant to the AVDC 'Sport and Leisure Facilities SPG Companion Document: Ready Reckoner', the council's open space standard is 2.47 ha per 1000 population, which equates to 24.7m<sup>2</sup> per resident.
- 9.66 The Sport and Recreation officer advised that the 61 bed care home component of the scheme is not considered to generate a public open space requirement. Those occupiers would benefit from the amenity space provision that is nonetheless being made around the site. Therefore, the consideration of any necessary provision relates to the 14 self contained apartments for which an off-site contribution is normally sought in accordance with the Ready Reckoner as detailed below.
- 9.67 Based on the following submitted bedroom per dwelling mix (14 x 2-bed), this development generates a full off-site sport/leisure contribution in accordance with the SPD and ready reckoner.
- 9.68 The Parks and Recreation officer advises that the contribution would be assigned to the Stratford Fields Play Area "Sport/Leisure Project" to be secured through a s106 planning agreement if the council was minded to approve the application. The s106 has now been completed and the proposal would accord with BNDP policy DHE6 and AVDLP policies GP86-88 and GP94

#### *Education*

- 9.69 The scheme would not place demand on primary and secondary school provision and therefore, a s106 obligation towards education provision is not relevant.

#### *Healthcare*

- 9.70 Whilst the care home and assisted living apartments will pose a demand on healthcare facilities, funding of such facilities is through central government. No comments have been received from the NHS in this regard.
- 9.71 Overall, the proposal would accord with BNDP policy DHE6 and AVDLP policies GP86-88 and GP94. The s106 has already been completed.

#### **Good Design**

- 9.72 NPPF para 56 states that the government attaches great importance to good design of the built environment, being a key aspect of sustainable development, indivisible from planning and should contribute positively to making places better for people.
- 9.73 Amongst other things, paras 57-8 state that design should aim to ensure development:
- Is high quality and inclusive
  - Functions well and add to the overall quality of the development over its lifetime
  - Establishes a strong sense of place, using streetscapes and buildings to create attractive and comfortable places
  - Optimises the potential of sites to accommodate development and create and sustain an appropriate mix of uses including green space and other public space
  - Responds to local character whilst not preventing or discouraging innovation (para
  - Create safe and accessible environments
  - Is visually attractive
- 9.74 Although, the NPPF states that planning policy and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or

initiative pursuant to para 60. Nonetheless, it is proper to seek to promote or reinforce local distinctiveness.

- 9.75 The AVDLP policies seek amongst other things, respecting and complimenting the physical characteristics of the site and surroundings, building tradition/ordering/form/materials, scale and context of the setting, natural qualities and features and effect on important public views and skyline (GP35).
- 9.76 The Design and Access Statement submitted in support of the application sets out the approach taken to the redevelopment of the site and a building which seeks to respond to the site, located within the conservation area and adjacent to the listed public house, within the town centre and adjacent the river. In particular the proposal has had regard to the characteristic Burbage plot, the long narrow plots with outbuildings stretching to the rear of the house and shop, along streets and marketplaces in medieval towns, reflecting the premium for land on the property frontage. The proposal draws upon this characteristic in the elongated footprint form, as well as the massing and appearance of the development which appears as a series of terraces.
- 9.77 The breaking down of the building layout into a series of elongated narrow elements in the front and rear seeks to respond to the historical Burbage pattern, the front section being the 61 bed car component and the assisted living flats in the rear element. The Building presents an outward facing, active frontage to Cornwalls Meadow, set back from the flank building line of the listed public house. The rear built form element replaces an existing garage. The front and rear elements are linked by a more recessive central massing containing the main entry and some of the communal facilities.
- 9.78 In terms of appearance, the front elevation is broken down into a series of narrower elements, reflective of the Burbage plot of terraced buildings. This emphasises the detailing and vertical emphasis, which is a modern interpretation of a traditional terrace, using gable and dormer roof ends, dormers, parapet walls and chimney pots to further break down façade and add visual interests. Establishing hierarchy and pattern to the window fenestration also reflects a traditional architectural approach. The secondary facades are similarly treated. Although higher than its neighbours at 3 to 4 storeys, the scheme is broken down into a series of elements with a varied setback reflecting a more traditional terrace and human scale approach rather than a single flat expansive façade which would otherwise appear alien and out of place
- 9.79 The materials study of buildings along the high street has informed the materials pallet comprising a range of durable, sympathetic facing materials such a brick and tile, with the final materials selection forming a condition if the council is minded to approve the application. The traditional aesthetic to respond its surroundings is an improvement and more contextual in appearance as compared to the vacant workshop.
- 9.80 The proposal further addresses the abovementioned policy criteria in the following ways:
- Access and circulation: Access to the care and assisted living components of the development are off a centrally located foyer and communal space at ground floor, conveniently located adjacent to the accessible parking spaces and facing the outdoor amenity space. This is considered a good compromise between providing a single point of entry for both components of the use which is convenient to the street frontage yet somewhat separated and protected by not being directly onto the frontage of Cornwalls Meadow
  - Quality of accommodation and amenity: Bedrooms and apartments are located off centralised cores to directly access the internal communal facilities. In additional to the communal indoor and outdoor spaces, many have access to private amenity space. Generous windows will offer a pleasing sense of outlook and openness to the landscaped perimeter of the building and surrounding conservation area. In respect of

the potential amenity issues of the sewerage pumping station in the vicinity of the site, the council's Environmental Health team advise that they do not anticipate complaints, noting there have been no complaints recorded for this pumping station and that the development is sited more than 15m in accordance with Anglian Water recommendation;

- Safety, security and crime mitigation: Ground floor windows on all faces provide good surveillance of the street and building perimeter whilst defensible planting provides a buffer and separation for windows and amenity terraces. Points of public/communal entry are limited to the building and could be controlled to limit access. Communal areas including the parking area and outdoor amenity adjacent River Great Ouse are overlooked by the scheme, providing passive surveillance.

9.81 The proposal therefore accords with AVDLP policy GP35 and NPPF Chapter 7 requiring good design and is afforded moderate positive weight.

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

9.82 Policy GP53 of AVDLP requires new developments in and adjacent to conservation areas to preserve and enhance the character and appearance of the Conservation Areas. By seeking to ensure that the significance of the heritage asset (the conservation area) is preserved or enhanced, this policy is in that respect consistent with the NPPF. The policy does not however go on to include the balancing elements of NPPF paras. 133 and 134 in circumstances where either substantial or less than substantial harm is found, and in that respect it is inconsistent with the NPPF. Given this, the weight to be applied to this policy must be reduced but limited weight can still be afforded to it.

9.83 The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 132 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 134 advises that where a development will cause less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The NPPF at paragraph 134 notes that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The NPPF at paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Paragraph 139 extends this provision to non-designated heritage assets with an archaeological interest.

#### *Heritage significance of site and surroundings*

9.84 Designated heritage assets: The site lies entirely within the Buckingham Conservation Area. To the west of the application site is The Grand Junction Public House, which is a Grade II Listed Building. Both the CA and listed building are designated heritage assets.

9.85 Non designated heritage assets: There are also buildings of local note that are non-designated heritage assets in the vicinity. Adjacent to the listed public house, is no.14-15 the High Street which has been identified in the conservation area document as a prominent building which contributes positively to the area. This would be considered as a

non-designated heritage asset, which contributes to the Conservation Area, which is a designated asset.

- 9.86 The application site is positioned towards the edge of the historic core of Buckingham. Currently the site contains a green space to the southern end, and a more utilitarian area at the northern end nearest the listed Grand Junction public house. The green space contributes positively to the overall character and appearance of the Conservation Area as it creates a green buffer between the built environment and the River Great Ouse. The more utilitarian overgrown area makes a negative contribution in visual terms. However the low boundary wall to the front is in keeping with the area and due to the openness of the entire site, this area also offers views across the rear of buildings which front the High Street (including the identified listed and local note buildings), which is considered positive.
- 9.87 In general terms the form and subdivision of the plots at the northern part of the site are reminiscent of burgage plot development, with long narrow strips of land extending from the rear of the buildings on the High Street towards the river. This characteristic is evident in the historic maps. Whilst some of these historic plots have been lost or altered over time, the northern area of the proposal site still reads as part of this clear, distinctive and historically notable pattern of development within the town.
- 9.88 The existing building on the site is an unsightly utilitarian buildings and its demolition in the conservation area would represent an enhancement to its character and appearance. The principal design of the proposed new development is of two linked blocks of accommodation orientated perpendicular to the High Street and with its frontage towards Cornwalls Meadow. Although the proposed blocks are of a substantial scale, there are several design methods which have been utilised to mitigate the dominant appearance of these buildings. For example, the design has looked to the surrounding vernacular to emulate the raise and fall of the roofline, including chimneys, which overall breaks up the bulk of the roof slopes. Also they have proposed a mixture of materials, including two different types of roof tiles on the entire new development and different external wall finishes, which will dilute the sense of a continuous elevation and one large block. The design has also extended this approach to the fenestration treatment, replicating a form of hierarchy of window sizes which appear along the High Street, which again breaks up the elevation. In addition the block facing towards Cornwalls Meadow has been broken into vertical elements, reminiscent of a series of terrace buildings, this further mitigates against the overall scale and provides an active frontage towards the public area.
- *Consideration of the impact on the Conservation Area*
- 9.89 The application site is considered to contribute positively to the character and appearance of the Conservation Area, particularly in terms of the views across the rear of the historic buildings along the High Street, which allow an appreciation of historic development within Buckingham. The proposed gap between these buildings and the proposed new development will retain an understanding and views in the historic context from the western half of Cornwalls Meadow. However, the proposed building will result in the long views of this historic part of Buckingham to be reduced from some areas, including the remaining eastern section of Cornwalls Meadow, the river and green space beyond. However these are two viewpoints within a wider range of views towards the site and must be considered in the wider setting of the conservation area. In respect of views across the site from Cornwalls Meadow to the north east of the site, these are somewhat restricted by an existing utilitarian breezeblock building closer to the High Street and beyond that is a small modern development and builder's yard. Therefore there is no heritage significance in these views and their loss is of no concern. Indeed the proposed development provides an opportunity to improve these views.

- 9.90 Towards the boundary of the conservation area is the River Great Ouse and beyond this is open green space (which is outside of the conservation area boundary). The river and open space provides a visual contrast to the built environment and is considered an attractive background to the Conservation Area. Whilst views of these areas will be lost from the listed building, as the proposal has included a green buffer to the eastern end of the application site, views of the River and open space will be retained from the eastern section of Cornwalls Meadow. This green buffer also extends the open character and verdant appearance in this location.
- 9.91 In respect of the character and appearance of the site, the somewhat overgrown appearance of the upper end of the site and open character are not considered to be in keeping with the immediate area. The Buckingham Conservation Area is in the majority more densely developed. The buildings which front onto the High Street are within narrow plots and tightly formed rows, whereas to the rear of these, the buildings are more varied in both size, scale and design, including the medical centre, library, community centre, Waitrose and Cornwalls Centre and are all more modern in form and appearance. The proposed building is considerably larger in overall scale than these and is more comparably to the modern 'Candleford Court' development, also within the Conservation Area which was granted planning permission in 2007.
- 9.92 It is recognised that the proposal is larger than most buildings within the Conservation Area, and therefore consideration will need to be paid to whether its overall scale and mass would cause harm to the character and appearance of the Conservation Area. It is considered that the layout, broken form of varying structures and a careful attention to detailing of the design and materials provides mitigation against this and it is considered that this impact would be respectful of the characteristics in this area and that any harm from the development will amount to less than substantial harm to the significance of the asset in NPPF terms, at the lower end of the scale.
- 9.93 Conclusion: 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, which is accepted is a higher duty. It has been concluded that development would not preserve the setting of the conservation area; so the proposal would not accord with section 72 of the Act and considerable importance and weight should be given to this harm. The harm which would be caused to the significance of the heritage assets as identified above must be weighed against the public benefits of the proposal in accordance with guidance contained within the NPPF. Given the large extent of the Conservation Area, it must be noted that the affected area is relatively small in the context of the whole conservation area, and so it is the contribution that this small portion makes to the understanding of the wider historic development of the town as a whole and therefore the character of the conservation area which must be considered. It is further noted that the scale and massing of the building will be visually broken up by the layout, the varied form and articulation of the design and a careful attention to detailing in the design and materials which has helped to minimise the impact and any harm would at the lower end of the scale of the less than substantial test. It is considered that the level of harm at the lower end of the scale would not be sufficient to justify a refusal. Therefore in accordance with paragraph 134 the harm must be weighed against the public benefits.
- *Consideration of the impact on the Setting of the Listed Building*
- 9.94 Due to the scale of the proposal it is inevitable that the new building will be seen from and within views of the Grand Junction Public House, which is Grade II Listed. In regards to the setting of the listed building, a substantial open space, such as the application site is not a typical characteristic of a town centre public house. However, there is a gap of approximately 23 metres between the two buildings which will allow for a distinct

separation and will retain views of the rear of the listed building. The Heritage Officer has reviewed the previous advice in response to the criticism over confusion arising in the challenge and now confirms that the proposal would preserve the setting of the listed buildings as a heritage asset, given the distances between the existing and proposed buildings and the design approach of the proposal, rather than result in less than substantial harm as previously indicated. Therefore the principle of development on the proposed site is acceptable in terms of the setting of the listed Grand Junction Public House and no harm would arise.].

- *Consideration of the impact on the Setting of the Non-Designated Heritage Assets (Local Note Building)*

9.95 The local note buildings are adjacent to the listed buildings and as above due to the distance between the proposed development and the local note building there will be a sufficient separation between the two and views of the rear of the buildings will be retained and no harm would arise.

#### *Archaeology*

9.96 It is noted that the site is located within a designated archaeological area 'Buckingham Historic Town Core'. The Countryside Archaeology Service recommends and appropriately worded condition for an archaeological investigation report including recording, publication and archiving of results to address potential impact to archaeological remains in accordance with NPPF para 141. Therefore the proposal will accord with the NPPF Chapter 12 which seeks to conserve and enhance the historic environment, including the protection of archaeology. This is accorded neutral weight.

#### *Overall Heritage Conclusion*

9.97 The proposed development, whilst it will preserve and cause no harm to the setting of listed building, non-designated buildings of local note and archaeology, it will have some impact on the conservation area and therefore a conflict with AVDLP policy GP53 which has limited weight for the reasons given above. Special regard has been given to the statutory test of preserving or enhancing the character or appearance of the conservation area. However, given the large extent of the Conservation Area, it must be noted that the affected area is relatively small in the context of the whole conservation area, and so it is the contribution that this small portion makes to the understanding of the historic development of the town as a whole and therefore the character of the conservation area which must be considered. The impact on account of the scale and mass has been mitigated through the design. Regard has been paid to the less than substantial harm identified to the setting of the conservation area (which is to be afforded considerable importance and weight) and weighed against the public benefits of the proposal.

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

9.98 The NPPF at Section 10, 'Meeting the challenge of climate change, flooding and coastal change' advises at paragraph 103 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. Policy I3 of the BNDP refers to the inclusion of rainwater collection schemes in developments. Policy I4 states that development will not be permitted on flood zone 2 or 3 unless the conditions set out in the



NPPF and NPPG are met. and Policy I5 requires developments to demonstrate an appropriate solution for sewerage.

- 9.99 The north western part of the site and almost the entire building footprint is located in Flood Zone 1, considered to be at 'low probability' of flooding with all uses being appropriate in this zone pursuant to the NPPG Flood Zone Table 3.
- 9.100 The south-eastern corner of the building, both the care home and rear assisted living accommodation elements of the building as well as the majority of the car parking is located in Flood Zone 2 and therefore considered to be 'medium probability' of flooding. In Flood Zone 2, Essential Infrastructure, More Vulnerable, Less Vulnerable and Water Compatible development are appropriate, whilst Highly Vulnerable Development is appropriate if an Exception Test is met, pursuant to the NPPG Flood Zone Table 3.
- 9.101 The remaining south-eastern portion of the site, made up of the soft landscaped amenity area is located in Flood Zone 3 and therefore considered to be 'high probability' of flooding. In Flood Zone 3, Less Vulnerable and Water Compatible development are appropriate whilst More Vulnerable development and Essential Infrastructure is acceptable if an Exception Test is met, pursuant to the NPPG Flood Zone Table 3.
- 9.102 A care home is considered 'More Vulnerable' development in accordance with Table 2 of the NPPG Guidance Flood Risk and Coastal Change. As such the siting of the care home principally in Flood Zone 1 and 2 is appropriate whilst a Sequential and an Exception Test is required in relation to the amenity space provision that falls within Flood Zone 3.
- 9.103 The application is supported by a Flood Risk Assessment which identifies appropriate mitigation measures and includes an outline drainage strategy to demonstrate that the development would not exacerbate flood risk elsewhere; the detail and maintenance of which would need to be secured through conditions if the council was minded to approve the application. The supporting FRA and Foul/Surface Water Drainage Strategy also provide confirmation from Anglian Water that the proposed foul flows could be accommodated with the existing sewerage infrastructure network capacity.
- 9.104 In the course of negotiations and in accordance with NPPF paras 101, the applicant submitted the Sequential and Exceptions Tests in support the scheme and an updated document submitted following the quashing of the decision. Initially the care home has been sited such that the most vulnerable units are almost entirely sited in flood zone 1, being the area of least risk (EA Sequential Test Flowchart and Step 1). The Sequential Test evidenced that 23 no. potential alternatives sites variously identified in Buckingham being the agreed search area agreed with planning officers (Sequential Test Step 2) in the Strategic Housing Land Availability Assessment (SHLAA) prepared Aylesbury District Council (2013), Buckingham Neighbourhood Development Plan, Aylesbury Vale District Council – Five-year housing land supply interim position statement (October 2016), and Housing and Economic Land Availability Assessment (HELAA ) 2017 have been evaluated and found unsuitable or unavailable for the proposed scheme (Sequential Test Step 3).
- 9.105 Paragraph 034 of the NPPG states: It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.
- 9.106 The Guidance Note advises when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example '...It is for local planning

authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere’.

#### *Sequential Test*

- 9.107 The applicant has submitted a detailed Sequential Test and Exceptions Test (updated) in accordance with the requirements of the NPPF paras 99-103. In setting out the Sequential Test, particular regard has been given by AVDC officers to the advice and guidance on Sequential Tests set out in the Environment Agency’s Guidance Note. The EA recommend that this approach is used by local planning authorities to apply the Sequential Test to planning applications located in Flood Zones 2 or 3. The approach provides an open demonstration of the Sequential Test being applied in line with NPPF flood risk Practice Guidance. The updated sequential test took into account the most up to date information on availability and suitability of sites, which has been carefully considered by the council, including the Sequential Test methodology. On the basis that there were no suitable alternative sites available the council is satisfied that the scheme is deemed to have passed the sequential test (Step 4 – final).
- 9.108 In accordance with NPPF para 102, 103 and EA guidance, having passed the Sequential Test and being development shown in table 3 (‘More vulnerable’ use in flood zone 3a) an Exceptions Test was also provided (EA Exceptions Test guidance – Step 1). It is considered to suitably address the NPPF criteria, Step 2 of the Exceptions Test, as follows:
- Wider sustainability benefits that outweigh the flood risk:
    - Housing provision for older people is a critical issue given the predicted increase in householders over 65 (DCLG Household Projections 2013)
    - Assists in meeting a specific need and providing additional choice for the district and frees up conventional housing
    - The scheme will contribute construction and operational employment opportunities
  - Safety for the lifetime of the development:
    - Siting the vast majority of the building in flood zone 1 being an area of low risk with the least vulnerable aspects of the use such as the amenity space being located in flood zone 3
    - The finish floor level is above the flood level
    - Servicing and pedestrian access is available via routes to the north west of the proposed building in flood zone 1 and above the flood level
  - No increase to flooding elsewhere and where possible, will reduce risk:
    - The SUDs proposal increases the available on site storage compared to the existing and thereby reducing the flood risk elsewhere
- 9.109 Both the Environment Agency and SUDs officer concluded no objection on the basis that the Sequential and Exceptions tests had been met for the development and appropriately worded conditions are recommended as noted in their consultation responses in section 7 of this report. As set out above, Anglian Water advises there is available capacity for sewage and, wastewater and raise no objection.
- 9.110 It is considered the proposed development would be resilient to climate change and flooding in accordance with policies 13-5 of the BDNP and NPPF. This factor should therefore be afforded neutral weight.

#### ***Impact on residential amenities.***

9.111 Policy GP8 of the AVDLP seeks to protect neighbour amenity. The scheme is considered to maintain the amenity of neighbours in the followings aspects:

- Outlook/openness/overbearing development:
  - High Street properties nos. 16, 17 and 18, 1 The Limes, 2 the Limes, Stratford Lodge and Cecil's Yard Properties no. 1 and 2: Given the existing built form relationships for the residential properties fronting the High Street and which also face the rear towards the application site and the existing warehouse building, there is not considered to be a significant loss of outlook or openness as a consequence of the proposed scheme. A reasonable outlook will still be enjoyed, acknowledging that this is a town centre location and that the outlook to the High Street off-sets the change to the rear
  - Cecil's Yard properties nos. 5 and 6: These first-floor attic-style single aspect flats have skylight windows facing the garden of no. 1 The Limes and the existing warehouse and its large picture frame windows. Although the proposed building will be taller than the existing shed, it is not considered to result in an unacceptable loss of outlook and increasing sense of enclosure to the Cecil's Yard properties given that the 11m separation and that the Cecil's yard properties skylight windows are at the first floor and oriented to the sky on the sloped roof rather than being windows on a wall. Furthermore, that property no. 6 Cecil's Yard is a multiple aspect flat rather than single aspect, which benefits from a large opening facing away from the development on the south-east façade.
- Privacy/overlooking:
  - High Street properties nos. 16, 17 and 18, 1 The Limes, 2 the Limes, Stratford Lodge and Cecil's Yard Properties no. 1 and 2: There are no impacts identified owing to the separation distances over 22m as well as the limited number direct window-to-window relationships. In relation to nos. 1 and 2 The Limes and Stratford Lodge, there is separation of at least 15m and the windows are at oblique angles rather than a direct relationship
  - Cecil's Yard properties nos. 5 and 6: Owing to the 11m separation and that the potentially affected windows of nos. 5 and 6 Cecil's Yard are skylights in the sloping roof rather than on a wall, any privacy and overlooking impact is considered to be mitigated
- Access to light and shadowing: The Solar Study submitted in support of the application demonstrates that Nos. 5 and 6 Cecil's Yard will not be overshadowed by the proposal. Any overshadowing of the garden of no.1 The Limes is shown to be transient from late morning, and will only pass across the deeper sections of the garden rather than the area adjacent the house in an area that already experiences shadowing during the day as a consequence of the existing buildings adjacent. The incidence and transient nature of the shadowing is considered reasonable in this town centre location
- Noise and disturbance: The care home and assisted living is not considered to give rise to any potential noise and general disturbance impacts to adjacent residential occupiers. Nonetheless, it being further noted that the internal and outdoor communal amenity areas, kitchen and refuse stores are located away from the property boundaries bordering the residential neighbours to the north and west
- Odours/fumes: No impacts are identified. Nonetheless, it being further noted that the care home kitchen and the refuse stores are located away from the property boundaries bordering the residential neighbours to the north and west

9.112 It is considered the proposed development has the capacity to ensure an adequate level of residential amenity for existing and future occupiers in accordance with GP8 of AVDLP.

### ***Developer contributions***

9.113 As noted above, there are a number of requirements which would need to be secured in a Planning Obligation Agreement to secure their delivery, namely:

- Securing the accommodation for occupiers 55yrs and over with provision of a minimum 2hrs of care per week
- A financial contribution towards the footway/cycleway link to provide access to the Riverside Walk
- A financial contribution of £72,000 towards to the Buckingham Transport Strategy town centre elements to mitigate the impacts of the additional traffic on the local road system including junctions nearby in the town centre which are operating above capacity
- SUDs provision and maintenance
- A financial contribution of £34,650 towards off-site provision of leisure facilities.

9.114 The S106 agreement has been entered into and completed to secure the above.

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

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

*Other matters raised in representation*

9.117 Objections have been raised and question the need for such accommodation. It should be noted that the issues of considering alternative sites arise only in the context of the assessment of whether there was a satisfactory alternative sites in applying the Natural England 3 tests on European Protected Species in the context of the flood risk sequential test and whether there are no reasonably available sites as set out in the NPPF. This acknowledged that the population is expected to rise and given the level of planned growth, set out in the Council's emerging local plan. Members will be aware that commercial competition is not a matter for the planning authority, and the principle of the need for a care home and assisted living units is a matter for the developers or promoters of each scheme to decide whether or not to proceed with the approved development.

## **10. WORKING WITH THE APPLICANT/AGENT**

10.1 In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant and has focused on seeking solutions to the issues arising from the development proposal. In this case, the discussions took place with the applicant/agent which resulted in amended plans being submitted and which were found to be acceptable and approval is recommended.

## **11. EQUALITY DUTY AND HUMAN RIGHTS**

- 11.1 In line with the Public Sector Equality Duty the council must have due regard to the need to eliminate discrimination and advance equality of opportunity, as set out in section 149 of the Equality Act 2010. In making this recommendation, regard has been given to the Public Sector Equality Duty and the relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). The application provides care for the elderly to meet the needs of this group and no discrimination or inequality would arise from the proposal.
- 11.2 In line with the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a Convention right, as per the European Convention on Human Rights. The human rights impact have been considered, with particular reference to Article 1 of the First Protocol (Protection of property), Article 8 (Right to respect for private and family life) and Article 14 (Prohibition of discrimination) of the Convention.
- 11.3 The Human Rights Act 1998 does not impair the right of the state to make decisions and enforce laws as deemed necessary in the public interest. The recommendation is considered appropriate in upholding the council's adopted and emerging policies and is not outweighed by any engaged rights.

Case Officer: Jason Traves

Telephone No: 01296 585858

## CORRIGENDUM TO REPORT ON 20.6.18

### STRATEGIC DEVELOPMENT MANAGEMENT COMMITTEE 20 June 2018 ADDENDUM AND CORRIGENDUM PAPERS

**16/03302/APP - BUCKINGHAM**

Provision of a 61 bedroom Care Home with 14 Assisted Living apartments with associated access, parking and landscaping.  
Land Rear Of The Grand Junction Public House  
High Street, MK18 1NT

#### AMENDED RECOMMENDATION

Page 15, Para 1.0: Following legal advice that a re-executed s106 is required, amend the Recommendation as follows:

*“The recommendation is that permission be **DEFERRED AND DELEGATED to Officers for approval following the completion of a Section 106 agreement in respect of securing the accommodation for occupiers 55yrs and over with provision of minimum 2hrs of care per week, on-site SUDS provision and maintenance, financial contributions towards off-site leisure, off-site sustainable highway measures and highways works; any permission to be subject to such conditions as are considered necessary (as set out in the report). Or if a legal agreement is not completed, for the application to be refused by Officers for reasons considered appropriate**”*

#### ADDITIONAL TOWN COUNCIL COMMENTS

The following queries were received from Buckingham TC following the publishing of the committee report papers:

*“As this is going to Committee on 20th, please could you draw Mr Traves’ attention to the following:*

*Members retain the view that this is an unsuitable site, noting that recent decisions have confirmed 134 new care home beds in the town, and look forward to receiving information on their last response.*

*Which is on our last Consultee Response (labelled ‘Acknowledgement of consultee requests’, so he may not have realised it contained a response.)*

*The ‘last response’ (17th May) has only partly been answered. These questions have not:*

*Members discussed each document, noting errors and discrepancies, and asked whether any Risk Assessment and Evacuation Plan has been requested for a flood event necessitating evacuation (including a destination for bed-bound patients) and if so, whether the ambulance and fire service had agreed its feasibility. It was pointed out that Candleford Court was not supposed to flood, but did, regularly, and that remedial measures were being charged to tenants. Was the LPA’s Safeguarding Policy being adhered to?*

*Furthermore in recent months two new care homes in the town (134 beds in total) have been approved and it was questioned whether additional accommodation was required, especially in the floodplain. The second of these was not referred to in detail in the Sequential Test (like most of the available sites it was dismissed as not being in the town centre, therefore, did not meet the business plan).*

*The remaining paragraphs were comments, but any further information on these points would be appreciated.*

*The information would be appreciated asap, so as to be in the file when I brief the speaker for the meeting.”*

Response: The case officer report at para 6.4 makes reference to the further objection received from Buckingham TC.

In relation to flood risk assessment in the officer's report paras 9.98 to 9.110, specific consideration is given the Exceptions Test and the safety for the lifetime of the development. It is further noted for the avoidance of doubt in the consideration of evacuation in the event of a flood, the NPPG para 038 states what should be covered by the flood risk assessment to demonstrate that the development is safe as follows:-

- The design of any flood defence infrastructure *[Not applicable to this scheme]*
- Access and egress *[The design demonstrates on the floor plans a path of egress through the building with finish floor levels above the design flood level to a point of safe pedestrian and emergency vehicle access to the north west of the building which is above also above the design flood level in Flood Zone 1 'Low probability' of flooding]*
- Operation and maintenance *[As above, the path of egress through the building and point of pedestrian and emergency access will be maintained as part of the operational development as with the SUDS maintenance]*
- Design of development to manage and reduce flood risk wherever possible *[Locating almost the entire building to Flood Zone 1 in accordance with the sequential approach manages and reduces flood risk in the first instance, along with the above-mentioned design including egress routes and floor levels above the design flood level as well as provision of SUDS]*
- Resident awareness *[The development is located in an area served by the EA flood warning service which it will subscribe to]*
- Flood warning and evacuation procedures *[As above]*
- Any funding arrangements necessary for implementing the measures *[Not applicable as the measures including the layout, access routes and SUDS form part of the operational development]*

Therefore the development is considered to be safe, having provided sufficient information to the satisfaction of the council in consultation with Buckinghamshire County Council as Lead Local Flood Authority and the Environment Agency. Given the safe egress road outside the flood area it is not necessary to seek the level of further detail and consult with the emergency services that the Buckingham TC is suggesting.

For the avoidance of any doubt, access route to the north-west of the building is otherwise secured by virtue of proposed condition 14; the SUDS provision including maintenance is secured by virtue of proposed conditions 17, 19 and 20 and will be secured within the S106; and the scheme will not contribute to increased flood risk elsewhere by virtue of conditions 20 and 21.

In relation to the other recent approvals, the Sequential Test did identify the 2 no. sites

recently approved i.e. Land at West End Farm, Brackley Road, Buckingham, ref 16/00847/APP; and Land at Lace Hill, London Rd, Buckingham ref. 17/01940/APP. In terms of additional accommodation, as stated in the officer report paras 9.26 to 9.28 identifies there is a need for housing for older people including different accommodation options to cater for this group. Therefore, the scheme offers additional provision and options for older people which is a public benefit attributable and for which there is not a cap.

A further separate query was raised in relation to proposed condition 24:

*“Please could you ask Mr. Traves which access Condition 24 refers to? There is a conflict between the rear (service) access, which is the existing access relocated, and does have a footway each side, and the ‘main’ access, which is to be used by staff and residents which does not, at least on the drawings I have. It only has a short spur on the western side of the access, and then ends in the retained car parking bays, forcing pedestrians across the road to the Community Centre – a crossing point already labelled ‘too dangerous’ by AVDC in relation to proposed public toilets on the recycling corner, where visibility would actually have been less of a problem.”*

Response: The proposed access arrangements are acceptable as discussed in paras 9.35 to 9.37 of the officer report. The BCC Transport officer provided the following further points of clarification:

- Condition 24 is related to vehicle visibility splays and Condition 25 to pedestrian visibility splays. The conditions are required to ensure that vehicle and pedestrian visibility from the accesses are maintained.
- There is a pedestrian and vehicle access to the west of the main building that has pedestrian footways on either side. The main vehicle access to the east of the main building has a pedestrian footway on one side that would also cross the access to the extended riverside walk.
- The anticipated pedestrian generation from the development is insufficient to require the provision of a new pedestrian crossing as part of enabling this development in highway terms and there are no recorded accidents on Cornwalls Meadows that would require a crossing to be provided on highway safety grounds.

## **ADDITIONAL REPRESENTATIONS FROM THE PUBLIC**

Pages 31-32, Section 8: In addition to the representations referred to in the main report, 1 letter in support was received raising the following matters:

- This is a positive application that will bring many jobs to Buckingham (Cleaners, catering, managers, care workers)
- The scheme will bring financial gains in the town, noting a family member works in a nearby coffee shop which could do with more customers
- Buckingham is a lovely town but it still needs to prosper and a care home makes great sense, the resident noting it may serve their needs in the future

## **UPDATE ON HOUSING LAND SUPPLY**

Page 6, Para 1.22 of Overview Report; and Page 37. Para 9.28 of Main Report: The latest position statement published 19 June 2018 is an update to the last position statement (August 2017) to take account of new planning permissions and completions up to the new base date of 31 March 2018. It also updates the estimated delivery of sites based on the latest information. The current position which comprises the District’s Full Objectively Assessed Need stands at 11.7 years (‘Policy off’ position).



It should be noted that the separate supporting document 'VALP Housing Land Supply Soundness document June 2018' published today anticipates the housing land supply to reduce to 5.9 years on adoption of the VALP ('Policy on' position). This Housing Land Supply Soundness document is purely for background information to support VALP and should not be used in assessing planning applications.

This update does not alter the approach to the assessment and the recommendation.

## **REPORT CLARIFICATIONS**

### *Further clarification on the approach taken on AVDLP Policy RA13*

The development strategy of the AVDLP is to give priority to urban brownfield sites, within existing built up areas, accommodating a high proportion of development at Aylesbury (65%), a lesser proportion in the rural areas (35%) concentrated at a limited number of settlements, and limited development elsewhere. The strategy for the Rural Areas is based on the need to concentrate development at the largest settlements that have the greatest amount and range of services and best served by public transport through allocations in the plan and limited small scale developments at settlements identified in Appendix 4.

Policies RA13 and RA14 form part of that overall housing strategy and sought to take a protective approach to development coming forward within and on the edge of the Appendix 4 settlements. These were based on housing targets identified in 2004 which are significantly lower than that now identified as part of the evidence base of the emerging Local Plan.

In the context of the NPPF policy and government commitment to securing economic growth and the need for planning to support sustainable growth and to boost the supply of housing, the council have consistently taken the view that policies RA13 and RA14 are overly restrictive and must be regarded as out of date for the reasons set out in paragraph 1.3 of the overview report and therefore at paragraph 9.6 of the main (site specific) report, officers have given very limited weight to policy RA13 when considering proposals within settlements identified in Appendix 4. This approach similarly applies to schemes at the edge of settlements pursuant to Policy RA14.

Members will be aware that this policy has been regarded as out of date for some considerable period of time and has had regard to the improved position over time of the council's housing land supply. This has been confirmed through a number of recent appeals. If the policy had been applied with full vigour, (that is significantly restricting development at Appendix 4 settlements) it would have reduced the number of dwellings coming forward and impacted on the ability of the council to deliver the housing land supply to meet need in the district contrary to the NPPF, and maintain this pipeline of supply.

At paragraph 1.1 of the main report officers have recognised that the proposal does not comply with RA13. It is worth explaining that RA13 allows for larger schemes than the restriction of up to 5 dwellings or 0.2ha at Buckingham, so there is not a conflict with that part of the policy. The policy then requires compliance with other policies in the plan (and the written statement notes this at paragraph 10.44), which would include GP53, for which a conflict has been identified.

It should be noted that the 14 assisted living units are not the entire composition of the proposal. The more substantial element of the scheme is considered to be the 61 bed care home and its supporting facilities which are not considered to contribute to housing supply. Therefore, in attaching very limited weight to Policy RA13, its significance is further tempered given it applies merely to the assisted living units and not to the entire scheme.

### *Benefit attributable to a care home*

Pages 36-37, Paragraph 9.23 and 9.25: Officers have reviewed the economic benefits attributable to the proposal as cited having regard to other recently approved schemes to ensure a consistent approach. The report, attaches 'moderate' economic benefit to the economic benefit of such scheme. It should be noted the assessment of the recent scheme by Montpellier Estates Ltd at Lace Hill, Buckingham (AVDC ref 17/01940/APP approved 27.04.2018) for a 62 bed care home attached 'considerable' weight to the economic benefits. Given the equivalent scale of the applications, it is considered consistent and appropriate to attach 'considerable' weight to the economic benefits of the subject application.

### *The public benefits attributable to the scheme*

Page 17, Paragraph 1.10 of the main report refers to the public benefits. For clarification the scheme benefits variously identified in the officer report including

- the contribution to housing land supply of the 14 assisted living apartments which is a public benefit;
- the economic benefits arising from the creation of job during construction and operation of the care home and the contribution to the local economy which is a public benefit;
- the provision of elderly accommodation is a public benefit;
- benefits to the natural environment including tree planting and biodiversity enhancement which are visible to the public and positively contribute to the environment and regarded as public benefits of the proposal; and
- sympathetic design of the proposal again visible to the public and regarded as a public benefit of the proposal.

In contributing to a development which is sustainable in accordance with the NPPF, implicit in this are the positive benefits in the 3 dimensions of sustainable development namely economic, social and environmental. The stated benefits go beyond the red line site boundary and are undoubtedly public benefits, benefitting Buckingham particularly as well as the wider Aylesbury Vale district.

### *The planning balance and NPPF paragraph 134*

Page 17, Paragraph 1.15: Paragraph changes as follows: “

*“The claimants have argued during the judicial review that the tilted balance in paragraph 14 should not be applied irrespective of the consideration of the impact on heritage assets. Officers consider that even if the tilted balance is not applied, permission should be granted. The proposal would still be consistent with the NPPF. It would accord with the BNDP and the bulk of AVDLP policies. Those local plan policies which are contravened should be given **very limited or limited** weight for the reasons stated above. In spite of the considerable importance and weight to be given to the harm to the conservation area, officers consider that **the level of harm to the setting of the conservation area is at the lower end of the spectrum of less than substantial harm and** the positive factors in support of the development outweigh the harm caused by it. **Irrespective of whether or not ‘moderate’ or ‘considerable’ weight is attached to the economic benefits of the scheme, it is considered that cumulatively the public benefits of the proposal as outlined above are considered to outweigh the low level of less than substantial harm to the CA.** Therefore, it is recommended that, even without applying the tilted balance planning permission should be granted.”*

## REPORT AMENDMENTS AND CORRECTIONS

Page 16, Para 1.1 and 1.3: Replace policy RA53 with **GP53**

Page 16, Para 1.5: Update sentence as follows: *“Because of the existence of heritage assets in proximity to the site **and encompassing it in the case of the CA**, footnote 9 applies.”*

Page 17, Para 1.16 (and later paras including 9.68, 9.71, 9.114): As the previous planning permission has been quashed, the s106 ceases to have effect and will need to be re-executed.

Page 18, Para 1.17: Update sentence as follows: *“In view of this it is recommended that permission be DEFERRED AND DELEGATED subject to the **completion of the s106 agreement and the following conditions**.”*

Page 27, Para 3.5: Replace ‘cycling’ with ‘**recycling**’

Page 28, Para 4.6 bullet point 5: A further update to the Addendum Ecology Appraisal in June 2018 corrected a spelling mistake in the ‘Introduction’ of the document to make reference to the ‘Habitats Directive’.

Page 29, Para 6.4 bullet point 6: Amend as follows:

*“Regarding the Addendum Planning Statement: AVDC has indicated it has a 5yr supply; RA14 is not applicable to this site; using the 2002 approval for the hotel to establish the principle is disingenuous, before any ~~restruction fo~~ **construction of a building in the floodplain came into effect and the hotel was a smaller footprint and further up the site**”*

Page 34, Para 9.8: Amend paragraph as follows:

*“The application of relevant national and local plan policies to the proposal requires the consideration of the class of use as well as the detailed aspects of the proposed. The development is for a care home, being Class C2 and comprising of 61 bedrooms as well as 14 assisted living apartments. The assisted living accommodation are fully self-contained 2-bed and 3-bed units, which share the access and facilities. The occupiers of the assisted living units have care and support as part of their package, the minimum obligatory care provision being 2 hours per week. As such, the assisted living accommodation provides independent living sufficient to consider that these units are households which contribute to housing land supply. Therefore, the scheme should be assessed against policies relating to the supply of housing in relation to the proposed 14 assisted living apartments. In respect of the Buckingham NDP, although this is not a site allocated for housing in policy HP1 table 1 and the proposal exceeds the threshold for windfall sites where Policy HP7 advises that development on small sites of 10 dwellings or less, within the settlement boundary and including previously developed land will be supported, these policies do not have the effect of precluding the consideration of this application. **This was clarified in the Examiner’s report as follows: “...I note that, as a positive Policy, Policy HP7 does not seek to preclude larger-scale, sustainable windfall development from coming forward, as appropriate”.**”*

Page 37, Para 9.28, last sentence: Delete “Oct 2016” and replace with **“Aug 2017”**

Page 39, Para 9.39 bullet point 1: Amend sentence as follows:

*“The likelihood of car ownership is less given the mental and physical conditions ~~of~~ **of** residents in the care home;”*

Page 43, Para 9.67: Amend sentence as follows:

*“Based on the following submitted bedroom per dwelling mix (14 x 2 **and 3** - bed),...”*

Page 45, Para 9.81: Replace 'moderated' with '**limited**' positive weight

Page 51, Para 9.112: In respect of the consideration of 'Impact on residential amenities' add final sentence to the paragraph as follows:

**"In the absence of harm this matter should therefore be afforded neutral weight."**