



## AYLESBURY VALE DISTRICT COUNCIL Democratic Services

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31 December 2018

### STRATEGIC DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of the **Strategic Development Management Committee** will be held at **1.00 pm** on **Wednesday 9 January 2019** in **The Oculus - Aylesbury Vale District Council**, when your attendance is requested.

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

**Membership:** Councillors: B Foster (Chairman), R Newcombe (Vice-Chairman), C Adams, J Blake, J Bloom, A Bond, R King, L Monger and C Paternoster (ex-Officio)

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#### AGENDA

- 1. APOLOGIES**
- 2. TEMPORARY CHANGES TO MEMBERSHIP**  
Any changes will be reported at the meeting
- 3. DECLARATION OF INTEREST**  
Members to declare any interests.
- 4. OVERVIEW REPORT - JULY 2018 (Pages 3 - 12)**
- 5. 17/04837/AOP - COLDSTREAM FARM, WATERPERRY ROAD, WORMINGHALL (Pages 13 - 44)**

Outline application for a residential development of up to 18 dwellings.

Case officer: Jason Traves

**6. HUMAN RIGHTS ACT (Pages 45 - 46)**

## **Overview Report:**

### *Introduction*

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

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

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

### The Development Plan

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

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

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

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

### National Planning Policy Framework

- 1.8 The most up to date national policy is set out in the NPPF published in July 2018. At the heart of the NPPF is the presumption in favour of sustainable development (paragraph 11) in both plan-making and decision-taking.
- 1.9 The NPPF states at paragraph 8 that there are three objectives to sustainable development: economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 1.10 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.(paragraph 9).
- 1.11 The Government's view of what "sustainable development" means in practice is to be found in paragraphs 7 to 211 of the NPPF. Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 1.12 The presumption in favour of sustainable development in decision-taking is explained at paragraph 11 of the NPPF. Plans and decisions should apply a presumption in favour of sustainable development.  
For **decision-taking** this means;
- c) approving development proposals that accord with an up-to-date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or
    - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

### Foot notes:

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

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

- 1.13 In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
  - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
  - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
  - d) the local planning authority's housing delivery was at least 45% of that required<sup>9</sup> over the previous three years.

And subject to transitional arrangement set out in Annex 1

- 1.14 Local planning authorities are charged with identifying a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability (paragraphs 67-70) .
- 1.15 The NPPF sets out the means to delivering sustainable development. The following sections and their policies are also relevant to the consideration of all proposals:
- Building a strong competitive economy
  - Promoting sustainable transport
  - Delivering a sufficient supply homes
  - Achieving well designed places
  - Making efficient use of land
  - Promoting healthy and safe communities
  - Conserving and enhancing the natural environment
  - Conserving and enhancing the historic environment
  - Meeting the challenge of climate change and flooding
  - Supporting high quality communications
- 1.16 The NPPF sets out that transport issues should be considered from the earliest stages including the impact of development on the network, opportunities from transport infrastructure, promoting walking, cycling and public transport, environmental impacts of traffic and transport infrastructure, patterns of movement. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. (Paragraphs 102-103)
- 1.17 Paragraph 177 of the NPPF states "The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined. "
- 1.18 The Planning Practice Guidance (PPG) has not yet been fully updated to reflect the new NPPF.

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

### *Housing supply*

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

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

### *Neighbourhood Planning*

- 1.27 Paragraph 29 and 30 states: Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies<sup>16</sup>.
- 1.28 Paragraph 80 states that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.
- 1.29 The Neighbourhood Planning Act 2017 (the “Act”) came into force on 19 July 2017 and makes two provisions which are relevant:

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

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

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

### *Prematurity*

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

### Conclusion on policy framework

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

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

- Each report examines the relevant individual requirements of delivering sustainable development as derived from the NPPF which are:
  - Building a strong competitive economy
  - Promoting sustainable transport
  - Delivering a sufficient supply homes
  - Achieving well designed places
  - Making efficient use of land
  - Promoting healthy and safe communities
  - Conserving and enhancing the natural environment
  - Conserving and enhancing the historic environment
  - Meeting the challenge of climate change and flooding
  - Supporting high quality communications
- 1.36 These are considered in each report and an assessment made of the benefits associated with each development together with any harm that would arise from a failure in meeting these objectives and how these considerations should be weighed in the overall planning balance.

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

- 1.37 Members will need to assess whether the development would will support the aims of securing economic growth and productivity , but also that this would be achieved in a sustainable way. Paragraph 80 states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 83 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and the development and diversification of agricultural and other land-based rural businesses.
- 1.38 Members will also need to consider whether each development proposal provides for a mix of housing based on current and future demographic trends, markets and community needs, of an appropriate size, type and tenure including the provision of affordable housing. Key to the



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

#### **Promote sustainable transport**

- 1.39 It is necessary to consider whether these developments are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised, taking account of the policies in the NPPF. Paragraph 108 requires that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access to the site can be achieved and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 1.40 The promotion of sustainable transport is a core principle of the NPPF and patterns of growth should be actively managed to make the fullest possible use of public transport, walking and cycling and to focus significant development in locations which are or can be made sustainable.

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

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

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

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

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

- 1.47 Decisions should aim to achieve healthy, inclusive and safe places, promoting social interaction, safe and accessible development and support healthy life-styles. This should include the provision of sufficient choice of school places, access to high quality open spaces and opportunities for sport and recreation and the protection and enhancement of public rights of way, and designation of local spaces.
- 1.48 It will therefore be necessary to consider how each scheme addresses these issues.

### **Making effective use of land**

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

### **Achieving well designed places**

- 1.50 The NPPF in section 12 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 1.51 Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 1.52 Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Members will need to consider whether these issues have been dealt with satisfactorily.

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

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

### **S106 / Developer Contributions**

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

### **Overall planning balance**

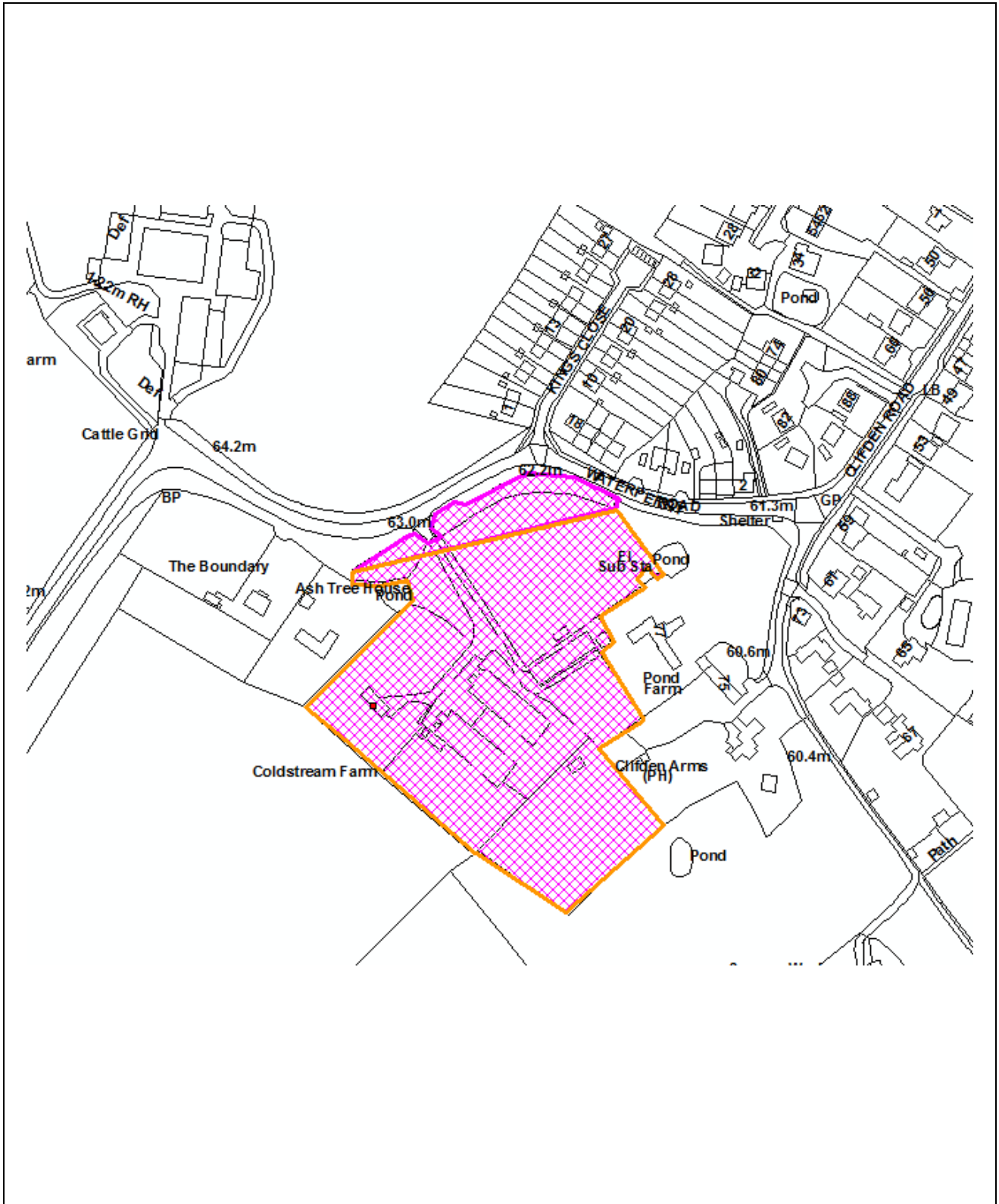
- 1.53 All of these matters, including housing land supply and delivery will need to be taken into account in striking an overall planning balance..

### **Conclusions**

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

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17/04837/AOP



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REFERENCE NO	PARISH/WARD	DATE RECEIVED
17/04837/AOP	Worminghall	21/12/17
OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 18 DWELLINGS.	The Local Member(s) for this area is/are: - Cllr Michael Rand	
COLDSTREAM FARM WATERPERRY ROAD WORMINGHALL		
COLDSTREAM FARM C/- OPTIMIS CONSULTING		
STREET ATLAS PAGE NO. 123		

**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 accordance with the Worminghall Neighbourhood Plan (WNP) and the Aylesbury Vale District Local Plan (AVDLP).**

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

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

**c) Impact on existing residential amenity**

**d) Developer contributions**

**e) Other Matters**

**The recommendation is that permission be REFUSED.**

**1.0 PLANNING BALANCE 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 objectives of the NPPF and whether the

proposals deliver 'sustainable development'. Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 1.2 In this case the Worminghall Neighbourhood Plan (WNP), which was made on 17.07.2018, and forms part of the development plan together with AVDLP. The WNP identifies the site as within the settlement boundary under policy SB1 and allocates the site for development under NH3 and these are up to date and included as two of the most important policies, together with policies NH1, CR1, CH1 of the WNP and GP35 of AVDLP. Paragraph 11d) & ii of the NPPF are therefore not engaged.
- 1.3 The proposed development is considered not to fully accord with Policy SB1 Settlement Boundary given the landscape harm to the settlement character and to the setting of the Clifden Arms public house which forms part of Worminghall. In regards to other policies:
  - The proposal accords with policy NH1 New Houses insofar as there are no impacts to existing residents amenity, the scheme is capable of preserving and enhancing vegetation and no public right so way are affected. However, it does not comply insofar as an LVIA has not been provided to consider the impacts to the settlement, countryside and receptors therein.
  - Whilst it is acknowledged that the layout is not a matter for consideration at this stage, the number of dwellings and specific information provided in the DAS and parameter plan as to how they would be laid out must be fundamental to assessing the impact that development of this site would have upon the character and appearance of the area, and as such it is considered that the information provided does not demonstrate that a contextually appropriate layout could be satisfactorily achieved contrary to NH1 and NH3
  - Policy NH2 Housing Mix will be further considered at reserved matters
  - The proposal does not accord with Policy NH3 Coldstream Farm / Rear of Clifden Arms, insofar as it will not enhance natural boundaries in relation to the countryside and will also harm the setting of the Clifden Arms.
  - For such reason the scheme is also contrary to Policy RC1 Rural Character and CH1 Heritage
  - The proposal accords with Policy CFR2 Recreation, subject to the on site LEAP provision and subject to the off-site contribution, both of which would be secured in the s106 planning agreement if the council was minded to approve the application
- 1.4 In respect of conserving and enhancing built environment, the development has been considered in the context of the setting of the listed public house, a heritage asset. The report identifies that the archaeological interests are preserved, however the proposal would result in a harmful impact on the setting of the listed building, a designated heritage asset. Under paragraph 134 of the NPPF a balance must struck between this less than substantial harm to the setting of the listed building – which is to be given considerable importance and weight and amounts to a strong presumption against development - and the public benefits of the proposal.
- 1.5 The development would make a contribution to the housing land supply which is a benefit to the proposal, although this benefit would be tempered given the small number of units, and therefore amount to moderate weight in the overall balance. 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 mitigation and provision can be made at the reserved matters stage to provide net gain in biodiversity terms which represents an absence of harm. It is not therefore considered that the significant harm to the setting of the listed building, albeit less than substantial, is outweighed by the benefits.

- 1.6 In this instance, whilst the principle of residential development is acceptable on this site, and proposes various public benefits (HLS and economic) and an absence of harm anticipated in some respects (Transport, loss of BMV Ag land, Trees and hedgerows, Biodiversity, contamination, climate change and flooding, supporting high quality communications, neighbour amenity) and subject to further details at reserved matters (achieving well designed places, future occupier amenity) the proposal would nonetheless result in adverse harm to the settlement character, the adjacent open countryside and to the setting of the adjacent listed public house, the Clifden Arms, contrary to WNP policies SB1, NH1, NH3, RC1 and CH1, AVLDP Policy GP35 and the NPPF. It is noted that regard has been had to the considerable importance and weight to be attached to the harm identified to listed building in accordance with the statutory duty.
- 1.6 Weighing all the relevant factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the WNP and AVDLP and supplementary planning documents and guidance, the proposal would conflict with WNP policies and AVDLP and there are no material considerations to indicate a decision other than in accordance with the development plan.

#### **RECOMMENDATION:**

It is therefore recommended that permission be **REFUSED** for the following reasons:

1. The proposed development of this site as indicated on the parameter plan submitted would fail to respect the prevailing building line in relation to the countryside edge, resulting in an intrusive form of development that would have a significant adverse impact on the landscape and the relationship and character of the existing settlement. It would result in a development that does not respect or compliment the physical characteristics of the site and surroundings, the building tradition, ordering, the natural qualities and features of the area and the effect to important views, including those from the public footpaths in the adjacent countryside. It would fail to comply with the NPPF objectives to recognise the intrinsic character and beauty of the countryside, and to conserve and enhance the natural environment. Furthermore in relation to historic setting, the proposed development zones would fail to maintain satisfactory separation with the listed building and would result in harm to the setting of the listed Clifden Arms public house, which is not outweighed by public benefits. The proposal is therefore contrary to Worminghall Neighbourhood Plan policies SB1, NH3, RC1 and CH1, Aylesbury Vale Local Plan Policy GP35 and the NPPF.
2. Had the above reason for refusal not applied, it would have been necessary for the applicant and the Local Planning Authority to enter into a Section 106 Agreement to secure on site affordable housing, on-site SUDS provision, management and maintenance, on-site LEAP provision and public access to it and via the route between Waterperry Rd and the Clifden Arms car park in perpetuity, POS and management, off-site transport contributions, off-site sport/leisure contribution, off-site education contributions. In the absence of such provisions, the proposal is contrary to the requirements of WNP Policies NH3 and RC1, AVDLP policies GP86, 87, 88, and GP94 and the NPPF.



## INFORMATIVES:

1. Had reason for refusal not applied the council would have sought further consideration and negotiation regarding the necessity and feasibility of a pedestrian crossing across Clifden Road in accordance with WNP policy NH3

### 2.0 **WORKING WITH THE APPLICANT**

- 2.1 In accordance with paragraphs 38 and 39 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal. AVDC works with applicants/agents in a positive and proactive manner by; offering a pre-application advice service, updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions. Given the issues encountered in the assessment it has been concluded that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole and the scheme has been refused accordingly.

### 3.0 **INTRODUCTION**

- 3.1 The application has been brought to committee as the parish is supporting the application and requests to speak at committee.

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

- 4.1 This application relates to Coldstream Farm, a chicken farm on Waterperry Road on the south western edge of the settlement of Worminghall. The farm comprises a dwelling, various buildings and structures including the hen sheds as well as a field which the Planning and DAS states is used for grazing horses. The site is located in Flood Zone 1 (low level of flood risk) and an archaeological notification area and within an aero safeguarding zone.
- 4.2 Most site borders have considerable mature planting. Adjacent the site and within the settlement is an area of woodland identified in the WNP. To the south and west of the application site is open countryside and public Footpaths which have views of the site and village. To the east of the site is the grade II listed public house, the Chiltern Arms. To the north and across Waterperry Road is residential development.

### 5.0 **PROPOSAL**

- 5.1 The outline application is for consideration of means of access for up to 18 dwellings. In addition to details of the point of access a parameter plan identifying 3 development zones provides an indication of the areas of development and area of open space and curtilage.

#### *Scheme amendments*

- 5.2 There have been discussions in the course of the application and several iterations to the indicative parameter plan as follows:
  - Amendments to the development zones
  - Amendments to the SUDS

#### *Supporting application documents*

- 5.3 Along with the application drawings, the following documents support the application:

- Heritage Impact Assessment
- FRA & Surface Water Drainage Strategy
- Ecological Assessment Report
- Transport Statement
- Arboricultural Feasibility Report

## 6.0 RELEVANT PLANNING HISTORY

6.1 15/03403/AOP - Outline planning application with access to be considered and all other matters reserved for the construction of 5 dwellings, utilising the existing access off Waterperry Road – Refused 07.12.2015 for the following reasons:-

1. The proposed development, by reason of its layout and scale, would result in an unsatisfactory form of development, which would detract from the rural amenities of the locality and the existing morphology of this part of Worminghall. As such the development is contrary to policy GP35 of the Aylesbury Vale District Local Plan and to guidance contained within the NPPF.
2. Had the aforementioned reason not applied the Council would have sought a further ecological and tree survey, together with mitigation measures, to establish the likelihood of protected species within the site, details of proposed surface water disposal, a historic evaluation and geophysical survey of the site to establish evidence of archaeological remains, and the securing of a financial contribution towards off site leisure provision through a Section 106 agreement.

6.2 The subsequent appeal (Ref 16/00053/REF) was dismissed. The Inspector had regard to the following in the judgement:

*“7. Although appearance, landscaping, layout and scale of the scheme would fall to be assessed in greater detail at a later stage, the overall quantum would be fixed and in trying to achieve an appropriate scheme at the reserved matters stage, there are a limited number of ways in which the appeal site could be developed for five, large detached dwellings.*

*8. The introduction of such development, the likely associated garaging, hard surfacing and future domestic paraphernalia and outbuildings would markedly change the character and appearance of the appeal site. Development would be uncharacteristically clustered around the centre of the site and close together with maximum ridge heights of 9m1. In my judgement, the proposal would result in a significant encroachment of overly dominant and compact built form that would set itself apart from adjoining development and not integrate well with it. In its context it would amount to overdevelopment to the detriment of the character and appearance of the appeal site and area and I do not consider that the current landscaping or future ecological and landscape improvements suggested by the appellant would mitigate this harm.*

*9. For these reasons, the development would cause significant harm to the character and appearance of the area and would conflict with Policy GP.35 of the Aylesbury Vale District Local Plan ('AVDLP') which, amongst other things seeks to ensure that the design of new development respects and complements the natural qualities and features of an area and the physical characteristics of the site and surroundings. I find this approach is consistent with the National Planning Policy Framework ('the Framework') insofar as the need to promote and reinforce local distinctiveness and that good design is indivisible from good planning. The proposal would therefore also conflict with the Framework.”*

6.3 16/02941/AOP - Outline application with access to be considered and all other matters reserved for the construction of 3 dwellings utilising the existing access off Waterperry Road – Approved 12.12.2016

6.4 It should be noted that condition 2 of the decision required *“Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of 18 months from the date of this permission”*. The consent has expired as no reserved matters have been submitted within the timescale specified.

## 7.0 PARISH/TOWN COUNCIL COMMENTS

### 7.1 Feb 2018:

*“Councillors agreed to support this application with conditions regarding Road Safety on an awkward stretch of road.*

*The Councillors would like to see more than a 'tactile crossing' (as suggested by Highways) to slow traffic near the entrance to this proposed development. There will be wheelchair users, children and parents/grandparents with push chairs crossing to and from the proposed play area.*

*A submission in support of the outline application has been sent to AVDC from the NP Committee.”*

*“Representation (Support) to Planning Application no. 17/04837/AOP, Outline application for a residential development of up to 18 dwellings. Coldstream Farm, Waterperry Road, Worminghall Buckinghamshire HP18 9JN*

*On behalf of Worminghall Parish Council/Worminghall Neighbourhood Planning Steering Group - Councillors agreed to attend a Committee hearing if necessary.*

*Summary of Support with conditions to address road safety concerns.*

- The outline proposal for 18 dwellings at a site at Coldstream Farm, Worminghall is in accordance with the Worminghall Neighbourhood Plan*
- The proposal includes the provision for a much needed recreation area and would extend the footpath network in the village*
- Development of the site would result in the removal of a working chicken farm which is an unneighbourly use and allow for reinforcement of boundaries to the open countryside.*
- Councillors added (Ref: 1.13) The proposed crossing (over Waterperry Road), would be at the slimmest part of the s bend in the village where cars travel too fast and the pavements are narrow and slippery. This could cause harm to pedestrians or wheelchair users who cross the road to the bus stop or children crossing the road to access the play area. Councillors thought this to be inadequate and that It would be better to put a zebra crossing in instead of a 'tactile crossing' as suggested by BCC Highways.”*
- Parcel C has been used for recreational shooting of clay pigeons for over 20 years and may be contaminated with lead shot.”*

#### *Neighbourhood Planning Background*

*1.1. A Neighbourhood Plan for Worminghall has been in preparation since the Parish was designated a neighbourhood planning area by AVDC in September 2016. The draft Neighbourhood Plan was published in September 2017 (Pre-submission version), and accompanying background documents for 6 weeks in accordance with regulation 14 of the Neighbourhood Planning (General) Regulations 2012 and the SEA directive.*

*1.2. The Worminghall Neighbourhood Plan and its accompanying documents have recently been submitted formally to AVOC under Regulation 16 and have been published by AVOC. The documents can be found here. <https://www.aylesburyvaldc.gov.uk/worminghall-neighbourhood-plan>. The policies therein will need to be accorded weight in development*

control decisions as set out in Planning Practice Guidance Paragraph: 007 Reference 10: 41-007-20170728.

1.3. The process for considering sites for allocation in the Neighbourhood Plan has been thorough and detailed and is set out in the accompanying Site Assessment Report ([https://www.aylesburyvaledc.gov.uk/sites/default/files/page\\_downloads/Worminghall%20Site%20Assessment%20Report.pdf](https://www.aylesburyvaledc.gov.uk/sites/default/files/page_downloads/Worminghall%20Site%20Assessment%20Report.pdf)). The map is reproduced at Annex 1 to this report. As part of the assessment of alternatives, the Neighbourhood Plan Steering Group asked the 3 developers who were actively promoting their sites to present their proposals to the Group for consideration on Saturday 28th May 2017. The 3 schemes were:

- Proposal at The Avenue: Rectory Homes presented a scheme similar to the one being currently proposed under reference 17/04268/APP to include houses and an equipped play area (Site 1 on the map at Annex 1)
- Proposal at Coldstream Farm: A scheme for mixed housing and a play area on Coldstream Farm and adjacent site, similar to the application submitted by Optimis Consulting reference 17/04837/AOP (Site 10/11 on the map at Annex 1)
- Proposal off Clifden Road (opposite Coldstream Farm) for a scheme of around 10 houses together with a separate offsite piece of land which could be used as a play area at the rear of Silvermead, owned by the same landowner. (Site 12 on the map at Annex 1)

1.4. These sites (as well as those which could provide alternatives) were assessed. All potential sites were displayed in the village to allow public comments.

1.5. The selected site to be allocated in the Neighbourhood Plan was the proposal at Coldstream Farm at the southern end of the village for the following reasons\*:

- The site is suitable according to the site assessment matrix and is not unpopular with the village.
- Part of the site already has outline planning permission for 3 houses, but is not yet developed.
- Some of the site is built on with a bungalow and chicken sheds and associated hard surfaces.
- The site is in part occupied by working chicken sheds, an un-neighbourly use which would be removed if the site were to be developed
- There is sufficient space for a fully equipped play area
- A footpath link could be provided through the site to the back of the Clifden Arms

(\*extract from Site Assessment Report December 2017 version)

1.6. The Draft Neighbourhood Plan was subject to formal consultation in September and October 2016. Out of the 40 representations, over 20 of the representations submitted supported the Neighbourhood Plan in general which includes the housing allocation at Coldstream Farm. Only 2 objected to the allocation at Coldstream Farm specifically, (including Rectory Homes who have a current planning application at the other end of the village) although a few representors felt that no development should be allocated in the village up to 2033. Full details of the consultations are set out in the Consultation Statement accompanying the Neighbourhood Plan.

1.7 It can therefore be seen that the Neighbourhood Plan has already been subject to extensive consultation and therefore should be taken into account and accorded weight when determining this planning application. This site is the preferred site for the village.

Comments on the planning application

1.8. The site (outlined in red) is shown as lying within the Settlement Boundary as set out in Policy SB1 and shown on the Policies Map of the Neighbourhood Plan. This settlement

boundary was drawn taking account of existing built development within the village plus the site that has been selected for allocation.

1.9. *It is acknowledged that the current application is outline with all reserved matters except access. The expectations of the village for this site are set out in Policy NH3 of the Neighbourhood Plan are: Policy NH3: Coldstream Farm/Rear of the Clifden Arms*

## 7.2 Feb 2018 cont.

*“Representation (Support) to Planning Application no. 17/04837/AOP, Outline application for a residential development of up to 18 dwellings. Coldstream Farm, Waterperry Road, Worminghall Buckinghamshire HP18 9JN*

*On behalf of Worminghall Parish Council/Worminghall Neighbourhood Planning Steering Group – Councillors agreed to attend a Committee hearing if necessary.*

*Summary of Support with conditions to address road safety concerns.*

- *The outline proposal for 18 dwellings at a site at Coldstream Farm, Worminghall is in accordance with the Worminghall Neighbourhood Plan*
- *The proposal includes the provision for a much needed recreation area and would extend the footpath network in the village*
- *Development of the site would result in the removal of a working chicken farm which is an unneighbourly use and allow for reinforcement of boundaries to the open countryside.*
- *Councillors added (Ref: 1.13) The proposed crossing (over Waterperry Road), would be at the slimmest part of the s bend in the village where cars travel too fast and the pavements are narrow and slippery. This could cause harm to pedestrians or wheelchair users who cross the road to the bus stop or children crossing the road to access the play area. Councillors thought this to be inadequate and that It would be better to put a zebra crossing in instead of a ‘tactile crossing’ as suggested by BCC Highways.*
- *Parcel C has been used for recreational shooting of clay pigeons for over 20 years and may be contaminated with lead shot.*

### Neighbourhood Planning Background- repeating the above

#### *Comments on the planning application*

1.1. *The site (outlined in red) is shown as lying within the Settlement Boundary as set out in Policy SB1 and shown on the Policies Map of the Neighbourhood Plan. This settlement boundary was drawn taking account of existing built development within the village plus the site that has been selected for allocation.*

1.2. *It is acknowledged that the current application is outline with all reserved matters except access.* *The expectations of the village for this site are set out in Policy NH3 of the Neighbourhood Plan are:*

*Policy NH3: Coldstream Farm/Rear of the Clifden Arms*

*The site is allocated for up to a total of 18 dwellings. The development should comprise a mix of units including both larger (family) and more affordable houses. At least 9 of the dwellings should be low cost market housing, these should comprise 2 and 3 bedroom homes. The development must allow retention of existing trees and hedgerows where appropriate, enhance the natural boundaries of the countryside with native species planting, respect the setting of the adjacent listed buildings and ensure that there is no unacceptable impact on the amenities of nearby properties.*

*The site will also provide: an equipped play area and accessible green space on the site; a footpath through the site linking the play area/green space with the back of the Clifden Arms car park; a pedestrian crossing across Clifden Road.*

1.3. Affordable Housing: *The village has a reasonable amount of affordable housing already and it is understood that there are very few on the waiting list currently who are from the Parish or surrounding Parishes. Under these circumstances, the Parish Council do not consider that this should be a requirement of the planning application. In order to increase the supply of market houses which are lower in cost, the Parish Council and Neighbourhood Plan Steering Group have negotiated with the applicants to provide half the units to be smaller 2 and 3 bedroom homes and this is indicated in policy NH3.*

1.4. Impact on the surroundings: *The site already is bounded by trees and it would be appropriate to retain as many trees and hedgerows on the site as possible and reinforce the boundaries of the site, in particular with the open countryside. The adjacent listed building and its setting must be respected, as should the amenities of the nearby residential properties. The site is of sufficient size to allow the design and layout of the built development to take account of these issues and constraints. A carefully designed scheme would enhance the site and its surroundings, given that the working chicken farm use would be removed. The current outline application seems to address these issues and it is hoped that the future reserved matters application will carry these issues forward and will give further detail.*

1.5. Provision of Play Area: *One of the main objectives of the Neighbourhood Plan was to facilitate the provision of a play area for the village and new residents. Worminghall has no play and public open space at all in the Parish. The applicant has agreed to provide an appropriate formal equipped play area and open space within the site and the Parish Council are in support of this proposal.*

1.6. Footpath and pedestrian crossing: *Worminghall village is a compact village and residents use the footpath network to reach the limited services in the village; the pub, village hall and church. Provision of a footpath for new residents to easily access the pub from the back of the site would potentially increase the custom in the pub and extend the existing footpath network. The provision of a pedestrian crossing would allow existing residents to reach the new play area easily and safely and is also likely to slow down the traffic on Clifden Road at the southern end of the village.*

1.7. Working with the local community: *The applicants have worked closely with the Parish Council and Neighbourhood Plan Steering Group to develop this planning application to provide an attractive housing scheme with all the elements suggested by the village. More detailed consultation with the community is anticipated and we look forward to developing the proposals further in the subsequent reserved matters planning application.”*

7.3 *The PC reconfirmed that it would like to speak at the committee hearing.*

## 8.0 **CONSULTATION RESPONSES**

8.1 BCC Highways: No objection subject to conditions

8.2 BCC SUDS: March 2018 update – Remove their Jan 2018 objection subject to conditions, based on the further information provided

8.3 Education: Require a financial contribution to expand existing primary and secondary schools in the planning area to accommodate the need arising from the development, it being noted that both primary and secondary schools are already at capacity.

8.4 Landscape: Objection – Impacts on countryside and settlement character, necessitating amendment to the parameter plan. He has raised concerns over the development zones indicated which would limit potential layouts, character and relationship with countryside and settlement.

- 8.5 Heritage: Inadequate information has been supplied to provide a convincing case that a suitably designed Reserved Matter scheme could be designed such that the significance of the designated heritage asset Clifden Arms Public House would be preserved. Unless this information is supplied at outline stage and fully assessed it is likely that harm would be caused to this designated heritage asset which could not be supported. The application does not comply with the relevant heritage policies and therefore unless there are sufficient planning reasons, it should be refused for this reason.
- 8.6 Housing: Min 30% affordable housing to be secured, the mix should reflect the overall mix and also take account of local need, and a 75/25 split between rent and shared ownership if required. Further consideration of adaptability and clustering of not more than 3 dwellings. Affordable housing details will be required at reserved matters stage
- 8.7 Trees: Recommend conditions requiring details at reserved matters stage
- 8.8 Biodiversity: Further information will be required to enable this application to be compliant with NPPF in respect ecological enhancement measures. This needs to be submitted as part of any reserved matters.
- Proof that this development provides net gains to biodiversity so as to be compliant with NPPF and NERC Act 2006.
  - Details of model, location and position of integrated bat and bird boxes incorporated into fabric of buildings bordering open space in accordance with NPPF and Aylesbury Vale Green Infrastructure Strategy.
  - Details of landscaping proposals including habitats to be created, establishment and management regimes and species including the wetland area comprising the Suds.
  - Production of a site wide Landscape and Ecology Management Plan and a Construction Environmental Management Plan.
- 8.9 Parks & Recreation:
- In addition to the onsite provision, the development will place demand on other local facilities and to mitigate this a sport/leisure contribution of (exact amount dependant upon final approved bedroom per dwelling mix) is required having regard to the SPG and Ready Reckoner, together with aa bond, and additional commuted sum towards the open space schemes future maintenance, should the open space scheme be transferred to the Parish Council.
  - Following amended plans the LEAP now meets the minimum 400sqm in area, minimum 10m buffer distance from residential boundaries, minimum 20m buffer distance from residential dwellings and appears to provide sufficient distance between the potential attenuation basin and LEAP locations for users and maintenance vehicles to pass safely.
- 8.10 CCG: There will likely be an increase in population of approximately 43 new patients as a result of this housing growth which will have an effect on Trinity Health and Wellington House Practice. It is unlikely smaller scale developments would be large enough to generate a new build and therefore the CCG anticipate that there might be a requirement for modification to existing infrastructure using CIL contributions. Further clarification provided that the CCG would not be making a s106 request for healthcare contributions



from this development.

- 8.11 Sport England: No comments to make as the scheme does not fall within their statutory remit
- 8.12 Natural England (NE): No comments to make on the application
- 8.13 Buckingham and River Ouzel Internal Drainage Board: No comments to make on the application
- 8.14 Thames Water (TW):
- Waste Water: No objection and further comments as follows:
    - There are public sewers either nearby or crossing the site and any works must minimise the risk of any damage and also not reduce capacity or inhibit maintenance, repair and service provision
    - Discharge to public sewer to be minimised and separate permit required
    - No objection provided the developer follows the sequential approach to surface water disposal
  - Water comments: No objection having regard to network and treatment capacity and recommend an informative regarding the water pressure to be taken into account in the development design
- 8.15 **Archaeology: No objection to the proposed development and further do not consider it necessary to apply a condition to safeguard archaeological interest.**
- 8.16 Ministry of Defence (MOD): not safeguarding objections
- 8.17 Other: No comments were received from CPDA, Environment Agency (EA), Anglian Water (AW), Ministry of Defence (MOD) safeguarding, Waste.

## 9.0 REPRESENTATIONS

- 9.1 5 objections were received raising issues summarised as follows:
- No notification [Subsequent acknowledgment that a site notice was posted at the site]
  - Storage of cars on the site
  - Traffic and safety concerns re the access, the road and for pedestrians and cumulative impact with other developments
  - Proposal is inappropriate use of farmland in green belt and outside the village boundary
  - Incomplete application form
  - Querying if public roads, diversion/extinguishing/creation of rights of way
  - Lack of amenities, no sidewalks, no shops, no services, no public transport
  - Drainage and Flooding
  - Green belt land behind the property will be compromised
  - Reference to previous refusals and great crested Newts in the adjacent pond

- Questioning why this housing is being considered given other [unspecified] refusals
- References to the WNP in relation to policy TT1 and road network impacts
- Concerned that homes will be unaffordable 'executive' properties
- 18 dwellings too large and exceeds the requirement for the village
- Questioning the sewer plans and that the existing system is struggling to cope
- Out of character with the village
- Reference to other proposals in the village and possible alternative opportunities for redevelopment
- Reference to the financial motivation for proposals and the previous approval for 3 homes
- Light pollution and noise
- Damage to the environment [The details of the damage is not specified by the objector]
- Damage to countryside

9.2 1 comment was received:

- Not aware of any notification signs being posted at the site

## 10.0 EVALUATION

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

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

### **The Development Plan**

#### Neighbourhood Plan

10.2

10.3 Worminghall Neighbourhood Plan (WNP) was made on 17 July 2018. The application site lies within the Settlement Boundary of Worminghall as designated by the Worminghall Neighbourhood Plan (WNP) and is an allocated site. Policy SB1 (Settlement Boundary) states amongst other things that "*within the Settlement Boundary, defined on the Policies*

*Map, proposals for new buildings will be supported which are appropriate in scale, design and character to the village of Worminghall; contribute to its local distinctiveness; and are not harmful to the amenity or living conditions of neighbouring occupiers”.*

- 10.4 Other relevant policies are as follows.
- 10.5 Policy NH1 “New Houses” states that new houses to be built as infill in Worminghall will be modest in scale and sensitive to the rural character of the village, ensuring that development does not result in the loss of amenity to existing residents, including loss of privacy, loss of daylight, or visual intrusion by a building structure; a landscape and visual impact assessment is provided with the application for development; the proposals seeks to conserve and enhance mature vegetation, with new planting to screen the site and/or maintain the rural character of the locality; and the proposal conserves existing public rights of way.
- 10.6 Policy NH2 “Housing Mix” states that new development shall comprise a mix of housing, including affordable housing in line with the District Council’s policies and/or low-cost market housing, where feasible and viable. Support will be given to housing schemes which include two/three bed terraced or semi-detached accommodation.
- 10.7 Policy NH3 “Coldstream Farm / Rear Of The Clifden Arms” states that *“the site is allocated for up to a total of 18 dwellings. The development should comprise a mix of units including both larger (family) and smaller 2 and 3 bedroom homes. At least 9 of the dwellings should be affordable or low cost market housing, unless it can be demonstrated that this would not be practicable or viable. The development must allow retention of existing trees and hedgerows where appropriate, enhance the natural boundaries of the countryside with native species planting, respect the setting of the adjacent listed buildings and ensure that there is no unacceptable impact on the amenities of nearby occupiers. New development should use Sustainable Drainage Systems (SUDS) to reduce the risk of flooding. The site will also provide: an equipped play area and accessible green space on the site; a footpath through the site linking the play area/green space with the back of the Clifden Arms car park; a pedestrian crossing across Clifden Road.”*
- 10.8 Policy CFR2 “Recreation” states that all new housing development should make on site provision or a financial contribution for the provision of play and recreational space. Developer contributions will be sought where onsite provision cannot be made for the inclusion of play and recreational space in line with s106 planning obligations requirements or CIL Regulations.
- 10.9 Policy CH1 “Heritage” states that all new development should preserve and where possible, enhance Worminghall’s listed buildings and their settings. Applications will explain how the design of proposals might affect the historic character and appearance of the area, including any features of archaeological importance or undesignated heritage assets, and how proposals have sought to retain or enhance positive features of the area. Views of particular importance as defined on the Policies map should be preserved and not be obstructed by new development. Construction materials and finishes should reflect the surrounding area and the character and heritage of the immediate environment. Modern replacement and/or new build materials should visually compliment the immediate environment.
- 10.10 Further policy TT1 deals with parking and traffic.
- Aylesbury Vale District Local Plan (AVDLP).
- 10.11 The policy position and current housing land supply figures are addressed with the overview report that is to be read in conjunction with this Committee Report. What is of relevance however is that given the status and relevance of the Neighbourhood Plan, a weighted balance approach is not appropriate in this instance.

10.12 A number of saved policies within the AVDLP are considered to be consistent with the NPPF and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. They all seek to ensure that development meets the three dimensions of sustainable development. These policies can be relied upon provided that they are consistent with NPPF guidance. These include AVDLP policies GP2, GP8, GP24, GP35, GP38, GP39, GP40, GP45, GP59, GP86, GP87, GP88, GP91, GP95. Issues relevant to the consideration of the proposal in the light of this and other applicable policies are addressed in more detail below.

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

- 10.13 As set out in the overview report, the draft Vale of Aylesbury Local Plan. This Plan was published and subject to public consultation in summer 2016. Following consideration of the consultation responses, and further work undertaken changes have been made to the draft plan. A report has been considered by the VALP Scrutiny Committee on 26 September and Cabinet on 10 October 2017 on the proposed submission plan. The Cabinet's recommendations were considered by Council on 18 October 2017. The examination hearing ran from Tuesday 10 July 2018 to Friday 20 July 2018. The adoption of the Vale of Aylesbury Local Plan is planned to be in early 2019.
- 10.1 Whilst the VALP hearing has taken place there are a number of unresolved objections to the housing strategy and other policies. Paragraph 48 of the NPPF advises on the weight to emerging plans depending on the stage of preparation, unresolved objections and consistency with the NPPF. In view of this the policies in this document can only be given limited weight in planning decisions, however the evidence that sits behind it can be given weight. Of particular relevance is the Settlement Hierarchy Assessment (September 2017). Also the Housing and Economic Land Availability Assessment (HELAA) (January 2017) is an important evidence source to inform Plan-making, but does not in itself determine whether a site should be allocated for housing or economic development or whether planning permission should be granted. These form part of the evidence base to the draft VALP presenting a strategic picture.

**a) Whether the proposal would constitute a sustainable form of development having regard to:**

• ***Sustainable location***

- 10.15 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 7 to 211 of the NPPF, taken as a whole (paragraph 3). The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development for both plan-making and decision-making.
- 10.16 It is only if a development is sustainable when assessed against the NPPF as a whole that it would benefit from the presumption in paragraph 11 of the NPPF. The following sections of the report will consider the individual requirements of sustainable development as derived from the NPPF and an assessment made of the benefits together with any harm that would arise from the failure to meet these objectives and how the considerations should be weighed in the overall planning balance.
- 10.17 AVDLP identifies Worminghall as set out in Appendix 4 as a settlement where policies

RA.13 and RA.14 would apply limited infilling or rounding off would be appropriate, these policies are out of date as outlined within the Overview Report and only have very limited weight.

10.18 Woringhall is identified in the Settlement Hierarchy Assessment for the submission Plan (September 2017) as a Smaller Village. 'Smaller villages' are settlements defined as typically having a population of between around 200 and 700 and have between 2 – 5 of the key criteria (within 4 miles of a service centre, employment of 20 units or more, food store, pub, post office, GP, village hall, recreation facilities, primary school, hourly or more bus service and train station). The Settlement Hierarchy states that smaller settlements are not sufficiently sustainable to accommodate further significant development because of the limited or no services or facilities. However a small level of development is unlikely to lead to any environmental harm as there is already built form and will contribute towards providing locally needed homes for families to remain in the same communities and contribute to vitality.

10.19 The site lies within the settlement boundary identified in the WNP and is allocated for housing development comprising up to 18 dwellings. It is therefore considered that this is a sustainable location for development of this scale.

- ***Build a strong competitive economy***

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

10.21 It is considered that there would be economic benefits in terms of the short term benefit in the construction of the development itself and in the long term the resultant increase in population contributing to the local economy, in accordance with the NPPF, which is a moderate benefit.

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

10.22 Local planning authorities are charged with delivering a wide choice of sufficient amount of and variety of land and to boost significantly the supply of housing by identifying sites for development, maintaining a supply of deliverable sites and to generally consider housing applications in the context of the presumption in favour of sustainable development. In supporting the Government's objective of significantly boosting the supply of homes, paragraph 61 states that within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes. NPPF para 64 seeks at least 10% of homes are to be available for affordable home ownership subject to certain exceptions.

10.23 WNP Policy NH2 states that new development shall comprise a mix of housing including affordable housing in line with district council policy where feasible and viable and support will be given for schemes where 2/3 bed terraces or semi detached accommodation is included. NH3 requires that at least 9 of the dwellings should be affordable or low cost market housing, unless it can be demonstrated that this would not be practicable or viable.

10.24 In respect of affordable housing, GP2 of the AVDLP requires 30% affordable housing to be

provided on site for schemes providing 25 dwellings or more or a site area of 1 ha or more. The scheme is over 1Ha and affordable housing provision is therefore required. The NPPF requires that where there is a conflict between the local plan and a NP the most up to date policy will take precedent, in this case this is WNP policy NH3. The councils HEDNA (evidence base to the emerging VALP) which has weight in decision-making sets out the following mix for housing to the identified need in the district:

Market Housing		
Flats	1 bedroom	4%
	2 bedrooms	4%
Houses	2 bedrooms	13%
	3 bedrooms	52%
	4 bedrooms	21%
	5+ bedrooms	6.5%
Affordable Housing		
Flats	1 bedroom	9%
	2 bedrooms	6%
Houses	2 bedrooms	38%
	3 bedrooms	38%
	4 bedrooms	9%

*\*NB percentages may not equal 100% due to rounding*

10.25 The Planning and DAS states at para 5.2 that at least nine of the dwellings *will* be 2-3 bedrooms. Regarding affordable housing provision, there is no clear indication as yet of what is proposed other than para 6.28 stating that the scheme includes 50% “*more affordable*” housing it being noted there is no elaboration on what this means. Whilst the mix is not specified at this outline stage, it is considered that this could be achieved through a reserved matters submission.

10.26 The council’s Housing officer notes the following requirements and suggestions regarding a detailed proposals:

- The affordable housing split should be 75%/25% between affordable and shared ownership tenures
- The affordable units should be reflective of the overall housing mix whilst also taking in to account the local needs of the district, noting that there is currently a greater need for 2 bed 4 person and 3 bed 5 and 6 person houses, slightly less for 1 bed 2 person and 4 bed 7 to 8 person houses.
- The HEDNA shows a need for more affordable units to be accessible and adaptable, recommending that they meet Category 2 (accessible and adaptable) of Approved document M of the Building Regulations 2010 with a proportion of those (15%) to meet category 3 (wheelchair user) of the same document. Therefore, Housing would therefore ask that this need be reflected where possible.
- In terms of overall design details, build quality and materials the affordable units should be indistinguishable from market housing.
- Affordable housing should be well distributed throughout the whole site, suggesting clusters of no more than 3 affordable units noting that a road or garden boundary does not separate clusters.
- The applicant will need to supply an affordable housing plan at reserved matters stage showing the location, tenures, sizes and mix of affordable units that will be

supplied taking in to account the points above.

10.27 A s106 obligation would be necessary to secure affordable housing in accordance with WNP Policy NH2, AVDLP policy GPP2 and the NPPF. The contribution to housing supply and affordable housing is considered a moderate benefit.

- **Promoting sustainable transport**

10.28 It is necessary to consider whether the proposed development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved, taking account of the policies in the NPPF. Paragraph 108 requires that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access to the site can be achieved and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.29 WNP Policy NH3 seeks amongst other things, a footpath through the site linking the play area/green space with the back of the Clifden Arms car park; a pedestrian crossing across Clifden Road.

10.30 WNP Policy TT1 Parking And Traffic states that all development should provide adequate off-street car parking to meet the standards set out in the adopted Local Plan and any subsequent updates. Until the emerging Plan is adopted, there should be 1 parking space within the plot for 1 bedroom homes, at least 2 spaces for 2 or 3 bedroom homes, and at least 3 spaces for 4 bedroom homes. This latter point reflects GP24 of the AVDLP, which requires that new development accords with published parking guidelines. SPG 1 "Parking Guidelines" at Appendix 1 sets out the appropriate maximum parking requirement for various types of development.

10.31 It should be noted that as this is an outline application the detailed design and layout would be considered as part of any reserved matters and adequate circulation, servicing (including servicing for larger refuse vehicles) and parking should be capable of being accommodated..

10.32 In addition to the proposed access and the development zones and indicative access route, the parameter plans indicate a pedestrian route through the site, between Waterperry Road via the proposed play-space to the rear of the adjacent public house. It should be noted that access to and through the adjacent public house land is subject to a separate private agreement. The detailed design of the route would also be subject further consideration as part of the detailed design and layout at reserved matters.

10.33 In respect of the current outline for consideration of means of access, BCC Transport advise that the proposed access is identical to that which was considered acceptable and approved under planning permission ref. 16/04291/AOP. Although the current application would generate a greater number of vehicle movements, BCC remain satisfied that the access arrangements proposed are acceptable. It is further noted by BCC that, as the application in outline with only the access to be considered at this time, further details relating to access and parking of the detailed therefore these details can be dealt with at reserved matters application, including the following detailed aspects:

- Provision of the 2m footway is provided along the carriageway edge as was sought as part of the previous proposal 16/04291/AOP to link the site with Waterperry Road, it being noted that the current scheme is larger and therefore subject to a greater level of pedestrian movements which need to be accommodated. BCC consider that there is adequate room to accommodate the footway as part of the layout at reserved matters stage and request this is secured by condition if the council is minded to approve the application
- Tactile crossings should be installed at any pedestrian crossing points, including a point on Kings Close previously agreed to maximise the intervisibility between vehicles and pedestrians.
- The layout should provide adequate room for vehicles to park clear of the highway, manoeuvre and exit the site in a forward gear. There should also be room for larger service vehicles to manoeuvre, which will need to be demonstrated with the submission of a swept path analysis showing an 11m+ refuse vehicle serving the site.
- Conditions securing visibility splays, the means of access, the footway as well as a scheme of parking/garaging/manoeuvring, as well as layout out of turning area.

10.34 At this stage, the development is considered to comply with the WNP policies NH3 and TT1 and NPPF regarding highway safety and function and is regarded as having a neutral impact.

- **Conserving and enhancing the natural environment**

10.35 In terms of consideration of impact on the landscape, NPPF para 170 states that proposals should amongst other things protect and enhance valued landscapes, recognise the intrinsic character and beauty of the countryside, minimising impacts on and contributing to net gains in biodiversity, preventing new development contributing to or being at risk of unacceptable soil, air, water or noise pollution and land instability and remediating despoiled, degraded, derelict, contaminated or unstable land where appropriate.

*Landscape*

10.36 Several WNP policies contain requirements relevant to the consideration of landscape, namely:

- Policy SB1 Settlement Boundary states amongst other things that within the Settlement Boundary, defined on the Policies Map, proposals for new buildings will be supported which are appropriate in scale, design and character to the village of Worminghall; and contribute to its local distinctiveness
- 
- Policy NH3 Coldstream Farm/Rear Of The Clifden Arms states amongst other things that development must allow retention of existing trees and hedgerows where appropriate, enhance the natural boundaries of the countryside with native species planting, respect the setting of the adjacent listed buildings
- Policy RC1: Rural Character states amongst other things that The rural character of the village and its surroundings should be respected through new development by ensuring that the resulting form and layout of development is appropriate to the surroundings; boundary treatment and landscaping schemes should be carefully



designed so as to prevent undue urbanisation of the location; proposals should seek to conserve and enhance mature vegetation.

- 10.37 AVDLP Policy GP35 requires new development to respects and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines.
- 10.38 Policy GP38 states that development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible.
- 10.39 In landscape terms the site currently consists of a paddock area in the northern part of the site that abuts the Waterperry Road, farm buildings and associated bungalow on the western portion of the site and a further small field at the south-western extent of the site.
- 10.40 Whilst broadly level, the site is largely divided/defined by existing hedgerows (and associated trees)-although in places these have become gappy and in need of restoration/management.
- 10.41 Open countryside continues to the south and west of the site. This landscape lies with the 'Ickford Pastoral Vale'(LCA 8.12) an area of landscape that is assessed as being in "very good condition" and having "moderate sensitivity". The area is characterised by being "predominantly flat", with "no woodland" but with "the tree cover ... being strongest close to settlements and watercourses" and where "the villages of Ickford and Worminghall have retained a strong historic character" and where "the greatest visual interest tends to exist close to the settlement or watercourses".
- 10.42 To the east of the site the two adjacent properties Pond Farm and the Clifden Arms, are both grade II listed.
- 10.43 The WNP has allocated the site as being a site suitable for development and for the provision of "up to 18 dwellings" and this is specifically provided for by WNP policy NH3. The policy states that "*the development must allow retention of existing trees and hedgerows where appropriate, enhance the natural boundaries of the countryside with native species planting, respect the setting of the adjacent listed buildings and ensure that there is no unacceptable impact on the amenities of nearby occupiers*". The policy also requires that the proposed development should also provide 'a footpath through the site linking the play area/green space with the back of the Clifden Arms car park' and 'a pedestrian crossing across Clifden Road".
- 10.44 In addition to the site specific policy NH3, the Neighbourhood Plan also sets out a policy relating to the preservation of the rural character of the village at NP Policy RC1.
- 10.45 Policy RC1requires that "*the rural character of the village and its surroundings should be respected through new development by ensuring that: new buildings and extensions to existing buildings reflect and enhance the street scene, by way of their scale, height and massing; the resulting form and layout of development is appropriate to the surroundings; boundary treatment and landscaping schemes should be carefully designed so as to prevent undue urbanisation of the location; proposals should seek to conserve and enhance mature vegetation; development proposals must provide appropriate green infrastructure which aims to result in a net gain in biodiversity, species richness and/or abundance and provides or enhances connectivity between green spaces*".
- 10.46 The applicant has submitted an 'outline application for a residential development of up to 18 dwellings' with all matters except access reserved and this application has been accompanied by a 'Parameter Plan' (drwg. ref. 14089 (B) 108 Rev R)which identifies the basis upon which the applicant is seeking to demonstrate that a satisfactory form of proposed development can be achieved
- 10.47 The Parameter Plan thus forms the basis upon which the proposed development has been assessed. The Parameter Plan identifies three 'Development Parcels' (A,B & C) of varying

size and shape within the site and what is described as an 'indicative route through the site' that links the three 'development parcels' to the site access from the Waterperry Road. It also identifies an 'indicative play space location' adjacent to a proposed footpath that joins a proposed 'footpath link' from the Waterperry Road to a 'potential link to [the] public house' at the Clifden Arms. Three 'potential attenuation basins' are also identified as well as an area of 'open-space'.

- 10.48 The proposed development occupies a site allocated for development in the 'made' Neighbourhood Plan and as such there is no fundamental objection to the principle of development on the site for up to 18 dwellings. The applicant has however submitted a 'Parameter Plan' and it is thus necessary to judge whether the layout so indicated would be capable of complying with the policy requirements of the neighbourhood plan, the saved policies of the AVDLP and the policies of the NPPF. As explained above, the three identified 'development parcels' are clearly and specifically defined and, whilst they are of apparently irregular shape, they will shape the form that development can take when more detailed layouts are brought forward and several of the issues that flow from these constraints would cause fundamental problems for future detailed proposals.
- 10.49 Firstly, it is apparent from a consideration of the 'development parcels' (which together total 0.91ha) that the proposed development will be coming forward at a density of 19.8 dph (based on the net developable area). The development parcels will leave little room for variation in layout within the proposed defined 'development parcels', indeed are constrained in extent and it is highly likely that the proposed development will have plot sizes somewhat smaller than many existing plots in the immediate context of the site. This is explained in more detail below. This means that the layout will essentially be restricted and so will the relationship of the proposed dwellings with their surroundings.
- 10.50 For example, due to the limited depth of 'Parcel A' it is inevitable that dwellings in this area will have extensive sections of side and rear boundaries backing onto the continuous area of open space that extends around it, this would mean that much of this open space (and the footpath within it) would not be overlooked by 'active frontages' and correspondingly nor would the rear/side boundaries benefit from active surveillance. This approach would be contrary to good design practice as required by the NPPF (being contrary to basic 'Secured by Design' principles and planning practice guidance) and would also be contrary to AVDLP policy GP35 and the identified WNP policies. Furthermore there are limited depths shown in parts of parcels A and C which would constrain the size of plots and space around which would not respect the pattern of development in the area..
- 10.51 Secondly, it is also apparent that the shape of the proposed development parcels B and C would inevitably mean that development would be brought forward in extremely close proximity to existing hedgerows and the adjacent open countryside. In this context it is particularly noteworthy that the immediately neighbouring properties to the north (as well as the existing bungalow on the site) are set back some 25+m from the rural boundary. Whilst such an arrangement would be possible within the overall site (as appears to have been anticipated by the WNP policies) it would not be possible within the very specifically defined development parcels without a very significant drop in the number of proposed dwellings caused by a set back of a context appropriate dimension. Built form up to or in close proximity to this boundary would result in an intrusive form of development and would thus inevitably threaten the long term retention of the existing vegetation (again contrary to the identified policies). This would also result in a relationship with the adjacent countryside that would result in unacceptable landscape and visual impacts and would be noticeably at odds with the existing settlement pattern at this edge of the settlement. Whilst it is acknowledged that the layout is not a matter for consideration at this stage, the number of dwellings and specific information provided in the DAS and parameter plan as to how they would be laid out must be fundamental to assessing the impact that development of this site would have upon the character and appearance of the area, and as such it is considered that the information provided does not demonstrate that a contextually appropriate layout could be satisfactorily achieved. This was raised with the applicant on

several occasions who has declined the opportunity to enter into further negotiations or consider further amendments and wishes the application to be determined as submitted.

- 10.52 For the reasons set out above, the proposed development as defined by the submitted parameters plan would result in a form of development that would be contrary to the policies in the NPPF, AVDLP and WNP in particular AVDLP policy GP35 and WNP policies NH3 and RC1 and would result in significant harm..

#### *Agricultural Land*

- 10.53 Paragraph 170 of the NPPF advises that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land and, where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. There is no definition as to what comprises 'significant development' in this context but the threshold above which Natural England are required to be consulted has been set at 20 hectares so the site falls well below this threshold.
- 10.54 The application would result in the loss of agricultural land including the hen sheds and a field currently used for grazing. However, the loss of agricultural land is not address in the supporting information including the Planning and DAS. It is noted that there was no information evident in previous applications 15/03403/AOP and 16/02941/AOP to have regard to.
- 10.55 In regards to the separate NP process and input and assistance supplied by AVDC, consideration was had to the agricultural land classifications information derived from the DEFRA website. Worminghall was identified as variously Grade 3 and 4 and the application site as Grade 4. The Worminghall NP Site Assessment Report states the land as Grade 4. The NP Examiner's report stated he following:

*"4.21 I have also taken account of Natural England's concern that loss of the best and most versatile (BMV) agricultural land (Grades 1-3a) should be avoided. The Site Assessment Report includes information on the agricultural land value of potential sites. The chosen site at Coldstream Farm includes a grade 4 paddock, but there is no reference to any BMV land. I consider it unnecessary for the WNP to include additional policies and information on this matter."*

- 10.56 On the basis of the above there is no evidence to suggest that the proposals would result in the loss of any BMV land which would otherwise be contrary to the NPPF.

#### *Trees and hedgerows*

- 10.57 WNP Policy NH1 states that amongst other things new houses to be built as infill in Worminghall will ensure that development seeks to conserve and enhance mature vegetation. Policy NH3 states that proposals amongst other things must allow retention of existing trees and hedgerows where appropriate, enhance the natural boundaries of the countryside with native species planting. Policy RC1 states amongst other things that proposals should seek to conserve and enhance mature vegetation.
- 10.58 Policies GP.39 and GP.40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value.
- 10.59 The AVDC Trees officer has considered the supporting arboricultural advice which identifies two individual trees and one group of trees for removal (all Cat C) as well as a further category U for removals. These removals are relatively minor, and there should be scope for compensation/replacement planting in the view of the officer although, it should be noted that further consideration will be necessary at reserved matters stage when the layout and detailed proposals are know. As such, the arboricultural information submitted at this stage is treated as indicative. Appropriately worded conditions are recommended for detailed information regarding existing trees and protection as well and proposed planting if the council is minded to approve the application.

10.60 Subject to the above conditions requiring further information and consideration at reserved matters, the proposals are considered capable of protecting existing trees worthy of retention, it being noted the proposed removals are considered acceptable, as well as accommodating sufficient compensatory and additional planting in accordance with the abovementioned policies and the NPPF.

*Biodiversity/Ecology*

10.61 Paragraph 170 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity.

10.62 WNP Policy RC1 states amongst other things that proposals must provide appropriate green infrastructure which aims amongst other things to result in a net gain in biodiversity, species richness and/or abundance.

10.63 The proposed development is likely to have a negative impact upon biodiversity if unmitigated. An ecological impact assessment has been submitted in support of this application which details the species and habitats currently found on the proposed development site. It is considered that this report acts as an accurate account of these features at the time of the assessment.

10.64 It is noted in relation to a future reserved matters application, the applicant will need to demonstrate how the development minimises impacts on biodiversity, provides net gains in biodiversity, and conserves and enhances biodiversity, in accordance with NPPF. The report has included a number of enhancement provisions but these are not considered to be in sufficient detail for the application to be compliant with NPPF in respect of these provisions at this stage. The following measures provide greater detail to those discussed in the report. These will need to be set out in detail in a site wide Landscape and Ecology Management Plan and a Construction Environmental Management Plane at reserved matters stage:

- Opportunities to incorporate biodiversity in and around developments will be required. Integrated bat boxes will need to be built into the south facing brickwork as high into the gable.
- Provision for Swifts will need to be incorporated into as many of the proposed dwellings under north facing eaves .
- The model, location and position of these devices will need to be included on the plans. Conventional bat and bird boxes are not acceptable because they are vulnerable to vandalism, require annual checking and not as effective as integrated devices.
- Provision of permeable fencing throughout the development to enable movement of hedgehog across the gardens proposed on site.
- In order to maximise the habitat value of created and retained habitats on site details of species, establishment regimes, management regimes and funds to secure on-going management of these habitats should be supplied. Habitats and species should be native, appropriate and be of and local provenance where possible.
- All mitigation, compensation, enhancement, habitat creation measures must be definitively stated in the application. It is not acceptable to state what could or should be provided, only what will be provided in order to ensure post development enforcement.
- The applicant will need to produce a site wide Landscape and Ecology Management Plan and a Construction Environmental Management Plan of the whole development for the approval of the District Councils Ecologist

Subject to the above including conditions recommended in relation to a future reserved matters application, it is possible for the proposals to demonstrate how it variously

minimises, conserves, enhances and achieves net gains in biodiversity in accordance with the abovementioned policies and the NPPF.

#### Contamination

- 10.66 Whilst there is no record of any land contamination issues on site, noting the parish comments, the identification and action to address any previously unidentified contamination previously remains the responsibility of the developer. The council's environmental health officer has reviewed both the council's GIS and site records and there is nothing of concern identified in relation to the historical use of the site and no requirements for any contamination conditions to be imposed if the council was minded to approve the application.

In regards to the potential for hazardous materials in the existing buildings to be demolished such as asbestos, this is a separate matter and an informative is recommended for the applicant to consult with the HSE, if the council is minded to approve the application.

These matters are considered to have a neutral impact

- **Promoting healthy and safe communities**

- 10.67 WNP Policies NH3 seeks an equipped play area and accessible green space on the site as well as a footpath through the site linking the play area/green space with the back of the Clifden Arms car park
- 10.68 Policies GP86-88 and GP94 of the AVDLP seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. school places, public open space, leisure facilities, etc.) and financial contributions would be required to meet the needs of the development.
- 10.69 The NPPF seeks to achieve healthy, inclusive and safe places, promoting social interaction, safe and accessible development and support healthy life-styles. This should include the provision of sufficient choice of school places, access to high quality open spaces and opportunities for sport and recreation and the protection and enhancement of public rights of way, and designation of local spaces.
- 10.70 In respect of open space, play-space and recreation, the revised parameter plan indicates that the provision of a play area on site would be capable of being provided in accordance with the WNP policy. In addition to the on site provision, a financial contribution would also be required towards off-site provision, which can be secured through a S106 pursuant to AVDLP policy GP86-88, SPD and Ready Reckoner. At reserved matters when the detailed design and layout is know, further consideration will be made to adequate quantum and design of the POS provision. Similarly, safety would be further considered at reserved matters stage when the detailed design and layout is know, notwithstanding the limitation and issues identified with respect to the parameter plan in the 'Landscape' section above.
- 10.71 The parameter plans shows an indicative link through the development to improve connectivity and access to the quipped play area, pursuant to the WNP policy.
- 10.72 In respect of education, a financial contribution towards provision of primary and secondary school provision to accommodate the need arising from the scheme, noting that facilities are already at capacity, would be sought if the council was minded to approve the application.
- 10.73 In respect of healthcare provision, although the CCG have identified that small schemes such as the subject application to place pressure on service provision, that they are not seeking a financial contribution towards existing facilities.
- 10.74 Subject to the on-site provision of play area, POS and connectivity at reserved matters as well as a s106 contributions towards sport and leisure and education, and further consideration of the detailed design and layout at reserved matters, the scheme would

have the potential to promote healthy and safe communities in accordance with the abovementioned policies and the NPPF. These matters are considered to have a neutral impact.

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

- 10.75 Section 11 of the NPPF requires that planning policies and decisions should promote an effective use of land while safeguarding and improving the environment and ensuring safe and healthy living conditions, maintaining the prevailing character and setting, promoting regeneration and securing well designed, attractive and healthy places.
- 10.76 Paragraph 122 of the NPPF relating to achieving appropriate densities states that in supporting development that makes efficient use of land, it should taking into account of the importance the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.
- 10.77 The residential redevelopment of the site is supported by the WNP and subject to further consideration of the detailed design, layout, scale and landscaping at reserved matters, the scheme *could* be an effective use of the land. However, given the landscape and heritage impacts arising from the parameter plan and which the applicant is not willing to further amend to overcome such issues, means that the current proposals are not an effective use of the land which seeks development to variously appropriately address countryside and settlement character and protection of heritage contrary to policies SB1, NH1 and NH3 of the WNP, AVDLP Policy GP35 and contrary to the abovementioned provisions of the NPPF For the reasons set out above this harm is considered to be significant.

- ***Achieving well designed places***

- 10.78 The NPPF in section 12 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 10.79 Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
- 10.80 Permission should be refused for developments exhibiting poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides. The overview report sets out Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments comply with key criteria.
- 10.81 Policy GP35 of the AVDLP which requires development to respect and complement the physical characteristics of the site and the surroundings, the building tradition, ordering, form and materials of the locality, the historic scale and context of the setting, the natural qualities and features of the area and the effect on important public views and skylines. Policy GP45 is also relevant and that any new development would also be required to

provide a safe and secure environment for future occupiers of the site.

10.82 The detailed design including layout, scale, appearance and landscaping are for consideration at reserved matters. Although, the issues and limitations posed to the future design by the current parameter plan which the applicant is not willing to further amend is noted at this stage. As discussed earlier in the Landscape section, the parameter plan is considered to result in a form of development that would impact on the countryside and settlement character. Additionally, the parameter plan would result in a development that harms the setting of the adjacent public house. For these reasons, the details of the scheme including the submitted parameter plan are considered to facilitate a well designed scheme, contrary to the abovementioned policies and the NPPF and would have a neutral impact.

- **Conserving and enhancing the historic environment**

10.83 Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving the Listed Building, its setting and any features of special architectural or historic interest in which it possesses. In addition to paying attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

10.84 The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 193 states that there should be great weight given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. Any harm or loss should require clear and convincing justification. Paragraph 189 extends this provision to non-designated heritage assets with an archaeological interest. Where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, paragraph 196 requires this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

10.85 The heritage assets under consideration are the following:

- The Clifden Arms public house located to the east of the application site
- the Grade II listed Pond Farm also located to the east of the application site

*Listed buildings further afield and any other non-designated assets are not identified as being affected by the proposals. Archaeology is dealt with later in this section.*

10.86 As part of the outline scheme for up to 18 dwellings, there is no indicative masterplan however, a parameter plan is submitted, showing three development parcels A, B and C, access and landscaping/open space with which to consider the implications for the nearby listed buildings.

10.87 The rear garden of Pond Farm is near development parcel A and is separated by a small landscape buffer and existing hedge and tree planting. The rear garden of Clifden Arms PH abuts development parcel C and is separated by an existing deciduous hedgerow. The block plan shows a potential footpath link into the rear garden of Clifden Arms PH.

10.88 A Heritage Impact Assessment forms part of this application however the primary focus of this document is on the archaeological implications of the proposal and no detailed assessment of the setting of the listed buildings has been undertaken, contrary to WNP Policy CH1 which requires applications to explain how a proposal might affect the historic character and appearance of the area, which necessarily includes listed buildings.

10.89 The Heritage officer is satisfied that development parcel A is likely to provide a suitable separation and landscape buffer between the proposed development and the listed Pond

Farm to avoid any adverse effects on the setting, subject to the detailed design coming forward including landscaping proposals.

- 10.90 However the development of parcel C will be clearly visible from the garden of the public house since no buffer or landscape mitigation has been provided in the block plan to ensure that the development would maintain a suitable separation to avoid any adverse effects on the setting of this listed building. This setting is currently characterised by open countryside and historically was an isolated building in the landscape. Parcel C facilitates a suitably designed scheme at Reserved Matters and does not ensure that the significance of this heritage asset is preserved and is thereby likely to cause harm to the setting of a designated heritage asset.
- 10.91 It is noted that this could have been potentially overcome through further amendment(s) to the parameter plan which were sought as part of the negotiation by officers. However the applicant has declined the opportunity to enter into further negotiations and declined to consider further amendments and wishes the application to be determined as submitted. It is considered that in the absence of information provided to demonstrate that a contextually appropriate layout could be satisfactorily achieved, the proposal is considered to result in harm which is considered to amount to less than substantial harm in NPPF terms. It would thereby be contrary to policy NH3, RC1 and CH1 of the WNP.
- 10.92 Overall, special regard and attention has been given to the statutory tests under S66 and S72 of the Planning (Listed Building and Conservation Areas) Act 1990, which is accepted as a higher duty. The parameter plan will result in a development which is inappropriate to the location and will result in less than substantial harm to the setting of the nearby Listed Buildings public house contrary to special duty of the Act, the abovementioned policies and the NPPF. 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.

#### *Archaeology*

- 10.93 In respect of archaeology and that part of site is identified within a notification area for archaeology, BCC have considered the proposals as well as the supporting heritage impact assessment, and consider that there is no harm to archaeology and no requirement for any further conditions in this respect.

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

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

The site is over 1Ha and is supported by an FRA. The site lies in flood zone 1, which is at very low risk of flooding

#### *Surface Water Drainage*

- 10.95 BCC as Lead Local Flood Authority (LLFA) has reviewed the information provided in the Addendum Letter (890185/AT/LLFA/L02, 26th February 2018, RSK) and the Indicative Surface Water Drainage Strategy (890185-SWDS P4, 26.02.2018, RSK). The surface water drainage scheme has been amended in the course of the application as requested by BCC, dividing it up to mimic the natural flow of runoff and topography of the site as well as having regard to the 3 development parcels A, B and C.



- 10.96 Proposals for Parcel A include a swale and an attenuation basin which discharge to an existing ditch along Waterperry Road at a rate of 2.2l/s. The surface water scheme for Parcel B is similar to Parcel A and will discharge to the ditch to the south of the site at a rate of 3.2l/s. Parcel C will attenuate surface water runoff within permeable paving and an attenuation basin with a discharge to the ditch which borders the site at a rate of 2.9l/s.
- 10.97 Further, BCC are recommending permeable paving is incorporated into parcels A and B and groundwater investigations will also be necessary to further consider the acceptability of the detailed design of drainage proposals at reserved matters stage. BCC recommend appropriately worded conditions of approval requiring the details surface water drainage scheme, maintenance plan and construction verification if the council is minded to approve the application

*Foul Drainage*

- 10.98 In relation to foul drainage, the scheme would be connected to Thames Water infrastructure who have indicated they have capacity and raise no objection to such, subject to a separate application for connection.

*Summary*

- 10.99 Overall the scheme is not considered to result in any increased flood risk on site or elsewhere, subject to conditions including the approval of the detailed surface water drainage proposals at reserved matters stage and separate details and agreement with the TW for the foul drainage. The proposals therefore accord with the WNP policy NH3 and the NPPF.. This is considered to be of neutral weight.

- **Supporting High Quality Communications**

- 10.100 Paragraph 114 of the NPPF requires LPA's to ensure that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
- 10.101 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. This is considered to be of neutral weight.

**c) Impact on residential amenities.**

- 10.102 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.
- 10.103 WNP policy NH1 New Houses states amongst other things that New houses to be built as infill in Worminghall will be modest in scale and sensitive to the rural character of the village, ensuring that development does not result in the loss of amenity to existing residents, including loss of privacy, loss of daylight, or visual intrusion by a building structure;
- 10.104 AVDLP policy GP.8 states that permission for development will not be granted where unreasonable harm to any aspect of the amenities of nearby residents would outweigh the benefits arising from the proposal.
- 10.105 A parameter plan rather than an illustrative masterplan is provided as part of the outline application and therefore, limited consideration can be had to the available information,

subject to the further consideration at reserved matters, if the council is minded to approve the application.

#### *Neighbours*

- 10.106 In relation to neighbours, no impacts are anticipated in terms of privacy, overlooking, outlook, openness, loss of daylight, visual intrusion of the future dwellings as the edge of the proposed development zones are +20m to the nearest neighbouring buildings on Ashe Tree House to the north-west and Pond Farm to the east and further screened by intervening landscaping. Similarly, no impacts are identified to the nearest properties on the north side of Waterperry Road which benefit from a significantly greater separation to the development zones as well as over 20m separation from the proposed LEAP.
- 10.107 Any noise, and general disturbance would be consistent with a residential use.
- 10.108 Lighting impacts would be considered at the time of the detailed proposals for any lighting that is not permitted development. As noted in the ecology section of the report, an informative is recommended drawing attention to the consideration of any lighting proposals in the absence of details being included in the reserved matters. The implications of any lighting proposals on neighbour amenity as well as ecology could be considered.
- 10.109 In relation to the construction phase impacts, these would be mitigated by the requirements for a CEMP which could be secured by condition if the council was minded to approve the application.

#### *Future occupiers*

- 10.110 In respect of separation, outlook and openness and privacy/overlooking, the development parcels A, B, C are of such a shape and dimensions that limit the future potential design in various way as discussed in the Landscape section of this report. It is considered that there is scope to ensure satisfactory separation distances as well as defensible planting and separation between habitable windows and roads and paths which is considered to accord with general design principles to maintain occupier amenity. and to mitigate any impact. In relation to the proposed LEAP, a min 20m buffer could be achieved in accordance with national guidance.. These aspects would be considered further at reserved matters if the council was minded to approve the application. This is considered to be of neutral weight..

#### *Summary*

- 10.111 Overall, an acceptable level of amenity is possible for neighbours and future occupiers in accordance with WNP Policy NH1, NH3, GP8 of the AVDLP and to NPPF guidance, subject to further consideration at reserved matters. This is considered to be of neutral weight..

#### **d) Developer contributions**

- 10.113 The s106 planning obligations applicable for a scheme are as follows:

- Affordable Housing
- On-site SUDS provision, management and maintenance
- On-site LEAP provision and public access to it and via the route between Waterperry Rd and the Clifden Arms car park in perpetuity
- POS and management
- Off-site transport contributions
- Off-site sport/leisure contribution,
- Off-site education contributions.

- 10.114 .It is considered that such requirements would accord with The Community Infrastructure Levy (CIL) Regulations 2010. Regulation 122 places into law the Government's policy tests on the use of planning obligations. It is now unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development of this nature

if the obligation does not meet all of the following tests; necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

10.115 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.

#### **e) Other Matters**

10.116 The above report addresses the representations made through the consultation of this application. Where these have not been addressed within the report, a brief response is made below to specific issues.

10.117 The following matters raised by objections are not relevant to the assessment of the planning merits of the application:

- Storage of cars on the site [Response: N/a to the proposal]
- Proposal is inappropriate use of farmland in green belt and outside the village boundary [Response: The application site and the adjacent countryside is not 'green belt' and the application site is located in the WNP settlement boundary]
- Incomplete application form [Response: A completed application form has been submitted]
- Querying if public roads, diversion/extinguishing/creation of rights of way [Response: Roads and rights of way are a separate a separate consideration, it being noted that there are no existing public roads or footpaths across the site]
- Green belt land behind the property will be compromised [Response: The countryside is not 'green belt']
- Reference to previous refusals and great crested Newts in the adjacent pond [Response: the application has been considered on its individual merits including the consideration by the council's ecologist]
- Questioning why this housing is being considered given other [unspecified] refusals [Response: Applications are considered on their individual merits]
- Reference to other proposals in the village and possible alternative opportunities for redevelopment [Response: The application proposed is the matter for consideration, not any other]
- Reference to the financial motivation for proposals and the previous approval for 3 homes [Response: Financial motivations are immaterial and each application is assessed on its individual planning merits]

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

### **DETERMINATION OF PLANNING APPLICATIONS**

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

### **HUMAN RIGHTS ACT 1998**

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

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

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

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

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

### **EQUALITY ACT 2010**

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

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