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App No : 18/05597/OUT App Type: Outline Application

Application for : Outline application (all matters reserved) for the development of up to 150 dwellings (including affordable homes), accessed off Stratford Drive, together with ancillary infrastructure including the provision of public open space, parking and circulation facilities and the management and protection of the water and ecological environments.

At Slate Meadow, Stratford Drive, Wooburn Green, Buckinghamshire

Date Received : 12/04/18 Applicant : Avant Homes and Croudace Homes

Target date for Decision 12/07/18

## 1. **Summary**

- 1.1. This report provides an update upon the policy position since the application was considered at the August 2018 Planning Committee. It is an addendum to that original report and plans – which can be found at appendix B and its aim is to present any changes that need to be considered by Members when determining the application as it now stands before them.
- 1.2. At committee Members resolved: That the Planning Committee are minded to grant outline planning permission, subject to:
  - a) Further discussion by their officers with the Environment Agency (EA) to clarify the current ambiguity over whether they are formally objecting or not. Once this is clarified the application can then either proceed to determination, or if the EA is actually objecting the Secretary of State would be formally consulted.
  - b) That the Head of Planning and Sustainability be given delegated authority to grant Conditional Permission provided that a Planning Obligation is made to secure Affordable housing, Primary and nursery education, Improvements in the provision of public transport in the local area, Improvements to the provision of walking/cycling routes in the local area, Management and maintenance of green infrastructure within the site, An off-site contribution for the improvement/management and maintenance of the Village Green, Travel plan (including monitoring fee), or to refuse planning permission if an Obligation cannot be secured.
  - c) In consultation with the Planning Committee Chairman, that the Head of Planning and Sustainability be requested to decline to exercise her delegated authority to determine any subsequent reserved matters applications, should any Member request that the approval of such reserved details would benefit from the scrutiny of Planning Committee.
- 1.3. The application has been brought back to the Planning Committee because the legal agreement under Section 106 has now been signed and it does not include a contribution to nursery education or a travel plan for the site. The first was not considered to be justified, the second was not requested by the County Highway Authority.
- 1.4. Bringing the application back to Committee also provides an opportunity to update the Members on the following:

- a) the current policy position with regard to the application,
- b) the weight to be given to existing and emerging policy,
- c) changes, where relevant, to the NPPF, and their impact
- d) changes to the Council's position with regard to housing supply and any impact upon this application and
- e) to report further representations received from Bourne End and Wooburn community groups.

## **2. The Application**

- 2.1. Please see the original report. No additional plans have been submitted apart from those appended to the Legal Agreement subject to this application.
- 2.2. The Environment Agency has provided an updated Flood Risk Assessment Map for the site based on their Wye (including Hughenden Stream) 2018 model this can be found at appendix D of this report. A colour copy can be found in the Council's 'Public Access' system.

## **3. Working with the applicant/agent**

- 3.1. In accordance with paragraph 38 of the NPPF (2019) Wycombe District Council (WDC) approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.
- 3.2. WDC work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.
- 3.3. In this instance since the Committee delegated the application back to the Head of Planning and Sustainability the case officer and the Council's legal services have been working with the applicant and Buckinghamshire County Council to produce a legal agreement.

## **4. Relevant Planning History**

- 4.1. Please see the original report.

## **5. Issues and Policy considerations**

The policies taken into consideration are the same, albeit that there has been a further NPPF published earlier this year (2019), as those considered in the original report.

### **Principle and Location of Development**

#### **Development Plan Framework**

- 5.1. For the purposes of considering this application the relevant parts of the Development Plan are the Wycombe Development Framework Core Strategy (July 2008), the Wycombe District Local Plan (January 2004) and the Delivery and Site Allocations Plan (July 2013), this has not altered since the original report to Committee in August 2018.

- 5.2. However, the emerging Local Plan is now further through its examination in public having published and consulted upon the main modifications. The Council is awaiting the Inspector's report.
- 5.3. The emerging policies of the New Local Plan can therefore be afforded greater weight in the determining of this application. The amount of weight will still depend upon the extent of unresolved objection to relevant policies and the degree of consistency of relevant policies with the NPPF.

#### Principle and Location

- 5.4. The principle of residential development on this site is as set out in the original report.
- 5.5. The primary emerging policy for this site is Policy BE1 – Slate Meadow, Bourne End and Wooburn. It is considered that the application complies with that policy.
- 5.6. There were a number of representations made to the Examination in public (EIP) of the emerging Local Plan concerning the draft policy. These are listed in Appendix C. The evidence base for this allocation was considered at the hearing into 'Matter 10' on 6<sup>th</sup> September 2018. Of those representations that requested to speak at the EIP only one (Progress Planning at sections 2.1 to 2.4) objected to the allocation at Slate Meadow on the basis of potential flood risk, ecology and highways considerations.
- 5.7. These objections were considered in the Council's Matter 10 Statement to the EIP at 1c (1.29 to 1.55) the Inspector sought no modifications to the emerging policy as part of the Main Modifications to the Plan. The policy requires a Flood Risk Assessment and a sequential approach to development. The Ecology of the site and the impact upon Burnham Beeches SAC are enhanced and protected respectively by section 3 of the policy and the impact upon the highway network is considered at Section 2.
- 5.8. The representation with regard to Matter 10 by 'Keep Bourne End Green' only make a passing reference to Slate Meadow when considering whether 'Wooburn and Bourne End' is a 'Tier 2' settlement. At paragraph 11 it refers to the development brief for Slate Meadow and appears to support the stance that the development of Slate Meadow seeks to provide multi-functional spaces that maintain the separation between the two communities of Wooburn and Bourne End. No other comment on the Slate Meadow allocation and policy is made within the document.
- 5.9. The representation with regard to Matter 10 by West Waddy on behalf of Bourne End Residents Association & Hawks Hill Widmoor Residents Group makes no mention of Slate Meadow or its allocation.
- 5.10. The representation by this Council sets out the background to the allocation. This includes the statement at 1.38 by the Environment Agency. 'The EA raised concerns with regards to the level 2 SFRA at Regulation 19 stage but withdrew their comments on this particular site, confirming that they "know that the site is deliverable with the indicative dwelling numbers". The indicative dwelling numbers are 150 in the policy.
- 5.11. As stated above, there were no proposed modifications to this policy in the consultation on the main modifications to the emerging Plan. The policy is considered to be consistent with the NPPF as a whole as it seeks to achieve sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

- 5.12. Based upon the above it is your officer's opinion that considerable weight can be given to policy BE1 in the determination of this application. The development brief for the site is considered to be consistent with the requirements of policy BE1.

### **Flooding and drainage**

- 5.13. The Environment Agency have clarified that they remove their objections subject to conditions being imposed on any planning permission granted. They repeat their advice with regard to a sequential test.
- 5.14. Since that report the NPPF has been updated but the advice on flooding and the sequential test has not altered.
- 5.15. The question of whether a sequential test is triggered was considered in the original report. Since that report the Environment Agency has now provided an update to the flood map for this area in the form of a flood risk assessment map. This is taken for the Wye (including Hughenden Stream) 2018 model.
- 5.16. That model shows that the whole of the proposed development area is outside the 1%+35% Climate Change Annual Exceedance Probability. Based on this there would be no requirement for a site specific sequential test and policy DM17 (1) would no longer apply. As the site is greater than 1 ha policy DM17(2) would apply and the application is considered to be in compliance with this.
- 5.17. Slate Meadow is also an allocated site for development in the emerging Local Plan. Under that Plan it has passed the Level 2 Strategic Flood Risk Assessment without objection from the Environment Agency. The position the Environment Agency took with regard to this allocation in the emerging Local Plan was based on their latest assessment of flooding in the slate meadow area (referred to above).

### **Affordable Housing and Housing Mix**

- 5.18. The Section 106 agreement provides for affordable housing at 40% of bedspaces. This is the ratio set out in the current supplementary planning document on developer contributions. Given that some weight can be given to the emerging policy and published background information on affordable housing need, the ratio of affordable rented housing to shared ownership housing has been changed from 66% and 34%, to 70% and 30%, respectively.

### **Transport matters and parking**

- 5.19. The resolution put before the Planning Committee in August 2018 included the requirement for a travel plan for the development. A travel plan outlines objectives that, in accordance with national and local policy, are concerned with reducing or sustaining a low level of vehicle trips to/from the development. A package of measures is identified aimed at encouraging the use of sustainable travel opportunities.
- 5.20. In their response on the application the Highways Authority suggested that, in terms of sustainable travel, 'the furthest dwelling from the nearest bus stop generally meets the objectives of the Wycombe District Council's Delivery and Site Allocations Policy DM2. Specifically this allows a pedestrian to walk around 400m toward a bus stop served by a reliable and frequent bus route (relative to the site's location).'

- 5.21. The response continues 'With reference to this development, the stops in question can be used for half-hourly buses to High Wycombe town centre, Bourne End or hourly daytime services to Maidenhead. From that point on, rail links can be used to reach London (Paddington or Marylebone).'
- 5.22. It concludes 'I am therefore content that this site is acceptable in terms of its access to sustainable transport links. Nonetheless, the infrastructure at the locations closest to the site is antiquated. I therefore suggest that the overall permission binds the applicant to install Real Time Passenger Transport Information systems and generally modernise these bus stops.'
- 5.23. The Section 106 legal agreement provides the mechanism for the upgrading of bus stops adjacent to the site and the funds to do this, including the installation of Real Time Passenger Information systems on at least one stop in each direction. The requirements of the Highway Authority as far as sustainable transport links for the site have therefore been satisfied and the need for a Travel Plan falls away.
- 5.24. No Travel plan has therefore been sought within the Section 106 agreement and the agreement therefore varies from the 'minded to grant' resolution made by the Planning Committee.

### **Community facilities**

- 5.25. Being a development of over 100 dwellings a contribution is sought for education in line with the adopted developer contributions SPD. CIL funds are used for secondary education as this covers a much wider catchment area than primary or nursery education facilities.
- 5.26. It was initially reported that there had been no response from Children Services (Bucks County Council Education Department) and therefore contributions were being sought for both Primary and Nursery education. However, this was reported in error and the response from Bucks County Council Education Department is at appendix E. This confirms that only a contribution for Primary Education was being sought.
- 5.27. During the course of negotiating the S106 agreement clarification was sought from the County Council on this matter and it was confirmed that there is no justification for additional nursery provision due to the development.
- 5.28. The primary school contribution is specifically for the expansion of Claytons Combined School or such other education project within the Wooburn and Bourne End Civil Parish Boundary.

### **Ecology**

- 5.29. The original report refers to the potential impact upon the Burnham Beeches (SAC). For clarification the habitats Directive 79/409/EEC called for the identification of habitats of particular importance and Burnham Beeches is one such site.
- 5.30. Articles Article 6(2) and 6(3) provide as follows:
2. Member states shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which disturbance could be significant in relation to the objectives of this Directive.

3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

- 5.31. Natural England did not respond to the consultation on this application but they did comment upon the new Local Plan and the policy BE1 allocation for Slate Meadow within that plan. In their response they highlighted the potential for the increased population from Slate Meadow to have a significant effect upon the SAC due to recreational pressures. They advised that in order to counteract this potential pressure a level of high quality open space provision equivalent to 8 ha/1000 people should ideally be provided on sites within 5 km of the site and at a closer or more convenient location than the protected site.
- 5.32. As far as this application is concerned the site would deliver approximately 150 units, which equates to 375 people. This would result in a need for 3 ha of open space according to the Natural England standard referred to above. The proposal gives additional areas adjacent to the village green of over 4 ha, although some of the additional areas will be inaccessible due to ecology or standing water (SUDS).
- 5.33. The village green which is approximately 2.7ha in size will be improved and access to the on-site open space increased through improvements to the local footpath and cycle network. This has now been secured through the S106 legal agreement.
- 5.34. The proposal is therefore considered to have mitigated for any potential increase in recreational pressure upon the Burnham Beeches SAC in line with the advice of Natural England. It is noted that Natural England have not raised any subsequent objections to emerging policy BE1 and are satisfied with the HRA for the emerging Local Plan.

### **Infrastructure and Developer Contributions**

- 5.35. As previously stated, the Planning Obligations SPD sets out the Local Planning Authority's approach to when planning obligations are to be used in new developments.
- 5.36. Having regard to the statutory tests in the Community Infrastructure Levy regulations and the National Planning Policy Framework the applicants have entered into a legal agreement that covers the following:
- a) Affordable Housing (including local criteria in respect of the Occupation of Shared Ownership Housing)
  - b) Open Space (including an open space management plan and a contribution towards the future upkeep of the Village Green)
  - c) A scheme for improvements to the Village Green
  - d) A scheme to maintain the sustainable drainage system (SuDS) of the development
  - e) A management company for the purpose of administering and maintaining the Open Space Land and to be capable of maintaining the SuDS.
  - f) A bus real time passenger information contribution
  - g) A cycleway and Public Right Of Way improvement Contribution

- h) An education contribution for primary education

It is considered that these contributions are reasonably necessary to ensure a policy compliant form of development on the site.

### **Weighing and balancing of issues – overall assessment**

- 5.37. This section brings together the above to weigh and balance relevant planning considerations in order to reach a conclusion on the application. The weight that can be given will have potentially changed since the original report due to the change in the housing supply position and the advanced stage of the new Local Plan.
- 5.38. Section 38(6) of the Planning and Compulsory Purchase Act 2004 still requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
  - a) Provision of the development plan insofar as they are material
  - b) Any local finance considerations, so far as they are material to the application (in this case, CIL) the original report suggested this was approximately 4.5 million, this was corrected by the case officer at the Committee meeting and revised down to £2.5 million
  - c) Any other material considerations
- 5.39. At the time of the original report, the evidence available, based on the Wycombe Monitoring report (para 5.73) was that the Council did not have a 5 year supply of housing. That for the period 2017-22 against a target of 4291 (including shortfall and a 5% buffer) there is a supply of 4256 which equates to 4.96 years supply. This supply included the delivery of 150 dwellings at Slate Meadow.
- 5.40. The current position is that, based on the current method of calculating housing numbers, there is a 5 year supply, again this includes 150 dwellings at Slate Meadow. As such there would now be no weighted balance under the NPPF paragraph 11.
- 5.41. As set out above it is considered that the proposed development would no longer conflict with policy DM17 or require a sequential test.
- 5.42. In favour of the development is;
  - a) the provision of up to 150 new dwellings for the district. The weight that can be given to this is still significant.
  - b) the economic contribution that the development would provide through the creation of jobs during the construction stage. New residents are also likely to support existing local services and businesses with a possible increase in local jobs as a result. Weight is limited as there is nothing here that would not be provided by any other development. Limited weight can still be given to this aspect of the proposal.
  - c) moderate weight can also be given to the social role the development would play in delivering a mix of housing type and tenure that would meet the social needs of the population of the district; the provision of both additional open space and improvements to the local footpath/cycle network for both the existing and proposed population to enjoy and the proposed improvements to the bus-stops in the local area.
  - d) in terms of the environmental benefits moderate weight can be given to improvements to ecological areas, the village green and a net gain in biodiversity.

- e) some weight can also be given to the potential to reduce flooding in the surrounding area. However, this is only aspirational and therefore the weight in favour is very limited.
- 5.43. Given there is a 5 year supply, footnote 6 of Para 11 of the NPPF is no longer engaged. The applicants have demonstrated to the satisfaction of the EA and the LLFA that this proposal would not (once ground levels have changed) be an area at risk from any form of flooding. The weight that can be given to the emerging policy BE1 (which has been sequentially tested) has also increased.
- 5.44. As set out above, it is considered that the application now complies with the requirements of the development plan and there are no material considerations which sufficiently indicate that permission should not be granted. The application is recommended for approval.

## **Other matters**

### Referral to the Secretary of State

- 5.45. Following the original Committee resolution in August 2018 the Council was contacted by the Ministry of Housing, Communities and Local Government. The Ministry had received a request from the general public to use its 'call-in' powers to recover the application for the Ministers own consideration. The Ministry was provided with the comments of the Environment Agency and a record of our communications with their officers. Clarification of the EA position was sought and conformation received that the Environment Agency position is that they remove their objections subject to conditions being imposed on any planning permission granted. The suggested conditions have been discussed and agreed with the EA.
- 5.46. On 11 September 2018 a letter was received from the Ministry which confirmed that the Secretary of State has decided, having had regard to the call-in policy as set out in the Written Ministerial Statement by Nick Boles on 26 October 2012, not to call in this application.

### Representations by the local community

- 5.47. Representations from the local community seek to suggest that officers have misled Members in the housing supply figures they have presented. In response, the way housing supply is calculated and projected for an emerging Local Plan is not the same as the way it is calculated for day to day development management purposes.
- 5.48. The current situation as far as determining this application is that set out in the five year housing land supply position (March 2019) document on the council's web site. Wycombe District Council is able to demonstrate more than five years' supply of specific deliverable housing sites (from a 31st March 2018 base date). This accords with paragraph 73 of the 2019 NPPF. We therefore still weigh and balance the positive and negative aspects of the proposal but that is not a weighted balance.
- 5.49. Much has been made in the representations on this application about the lack of a sequential test and the assessment made in the original report in this regard. In particular the 'Watermead' judgement.
- 5.50. As previously stated, the starting point for any development management decision is the adopted development plan. (Section 38(6) of the Planning and Compulsory Purchase Act



2004). The emerging New Local Plan, the National Planning Policy Framework and supplementary planning policy and guidance (including the Slate Meadow Development Brief) will be key material considerations, alongside any other scheme specific issues. The NPPF itself reinforces S38(6) in paragraph 2.

- 5.51. The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development, meeting the needs of the present without compromising the ability of future generations to meet their own needs. There are three overarching objectives, which are interdependent, an economic, a social and an environmental objective. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.
- 5.52. Watermead makes it clear that under certain circumstances a sequential test is required by the NPPF. Regardless of the Development Plan policies, the NPPF is a material consideration when determining a planning application so if we wish to depart from national planning policy it must be done consciously and for good reason.
- 5.53. The original report makes it clear that there has been no sequential test and considered the proposal in the light of that. It pointed out that the need for a sequential test in this case was debatable and gives the reasons for this. It recommended that a precautionary approach be taken. It also pointed out that the application as submitted demonstrates that the development proposed can meet the needs of the present without compromising the ability of future generations to meet their own needs by ensuring that the proposal does not impact negatively upon flooding in the local area.
- 5.54. However, as stated above, the Environment Agency have now provided a revised 2018 Flood Risk Assessment for the Wye which shows that a sequential test is not triggered.
- 5.55. Concern has been raised over the time the application has taken to reach determination and whether this is in accordance with the Planning Performance Agreement between the applicants and the Council. The PPA sets out the intentions of the two parties and provides a framework for the process. This framework was principally concerned with the production of a development brief for Slate Meadow.
- 5.56. During the Planning Application stage the PPA sought to provide comfort that both parties would seek to progress the application to a point where the Planning Committee could make a decision. The application is being brought back to Committee with a S106 Legal Agreement so that can happen. The delay in the process is due to the complexity of the site and the need to have all parties signed up to the agreement. It is your officer's opinion that the concerns of the general public with regard to the PPA are not materially significant in the determination of the application before you.
- 5.57. At the time of completing this report the S106 agreement has been signed by the District Council, the County Council and the applicants. A copy of the agreement can be found at appendix F of this report.

## **Recommendation: Permission with Planning Obligation**