



## Report to West Area Planning Committee

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<b>Application Number:</b>	22/05527/FUL
<b>Proposal:</b>	Redevelopment of existing car park comprising construction of 2 x pairs of 3-bed semi-detached houses and apartment block comprising 4 x 2-bed flats, landscaping and parking
<b>Site Location:</b>	Car Park Old Kiln Road Flackwell Heath Buckinghamshire
<b>Applicant:</b>	Mr S Britnell (Revere Developments (Flackwell Heath) Ltd)
<b>Case Officer:</b>	Heather Smith
<b>Ward(s) affected:</b>	Flackwell Heath, Little Marlow & SE
<b>Parish-Town Council:</b>	Chepping Wycombe Parish Council
<b>Date valid application received:</b>	28th February 2022
<b>Statutory determination date:</b>	25th April 2022
<b>Recommendation</b>	Application Permitted

### 1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1 Full planning permission is sought for the redevelopment of existing car park comprising construction of 2 x pairs of 3-bed semi-detached houses and an apartment block comprising 4 x 2-bed flats, landscaping and parking at Car Park, Old Kiln Road, Flackwell Heath.
- 1.2 This proposal will have no adverse effect upon the character of the surrounding area or the visual amenity of the street scene.
- 1.3 This proposal will have no adverse effect upon highway safety or the level of car parking within Flackwell Heath.
- 1.4 This proposal will have no adverse effect upon the amenities of adjacent residents or the amenities of future residents.
- 1.5 This proposal will have no adverse effect upon the environment and ecology and will not increase the risk of flooding in this location.
- 1.6 This proposal complies with the policies of the Development Plan and is recommended for approval.

- 1.7 Cllr Johncock has requested that this application be considered by the Planning Committee on the grounds that there remains serious local concern about development on this site and Enforcement is currently reviewing its position on the possible enforcement of an existing planning condition.

## **2.0 Description of Proposed Development**

- 2.1 The application site comprises a car park, which is situated on the western side of Old Kiln Road in Flackwell Heath. The site forms the centre of an incomplete perimeter block surrounded by residential properties. The trees surrounding the site are subject to an area Tree Preservation Order, reference 07/2019.
- 2.2 To the north east of the site lies Aries House, a mixed use development from the early 1970's fronting Straight Bit, which forms part of the Flackwell Heath District Centre.
- 2.3 Aries House consists of retail units, including the former Budgens superstore, office accommodation and residential accommodation above. The use of the application site is linked to the use of those units via a condition.
- 2.4 The proposed block of flats would be located to the east of the site, fronting onto Old Kiln Road, with the proposed new dwellings located behind, in the form of two pairs of semis, running parallel with the existing dwellings to the north west and south east.
- 2.5 A similar scheme was considered by the West Area Planning Committee in July 2021 (Reference 20/05797/FUL). It was determined that the Committee were minded to refuse the previous application, due to its effect upon a) the character of the surrounding area, b) the living conditions of the occupiers of No's 2 and 4 Old Kiln Road, with particular regard to outlook and c) highway safety with particular regard to parking provision.
- 2.6 A subsequent appeal was dismissed by the Planning Inspectorate on the grounds that the proposal would have an adverse effect upon the character and appearance of the surrounding area. In particular, the Planning Inspector concluded that:

"Both the block of flats and the semi-detached dwellings proposed would have a height noticeably greater than that of the corresponding dwellings around the perimeter. The difference would lead to an overly prominent and thus incongruous development within an otherwise lower-level context, accordingly reducing the traditional qualities of the existing built form.

Even accounting for the block of flats third storey being inset from the elevations of its lower floors, owing to its flat roof, the additional storey would encompass the majority of the footprint of the building, thereby appearing excessive and bulky. This would further exacerbate the prominence and incongruity attributed to its height. Moreover the flat roof would jar with the prevailing pattern of development of traditional pitched roofs which typify properties along this stretch of the road."
- 2.7 However, the other reasons were not accepted by the Inspector.
- 2.8 The current scheme, the subject of this application proposes to erect two pairs of semi-detached properties and a block of 4 flats on a similar footprint as previously proposed. However, the height of the proposed semi-detached properties has been reduced from 8.3m to 6.5m in height. The proposed block of flats has been reduced from 8.7m to 7.6m. In addition, the block of flats would be erected with a crown roof, incorporating a small hipped roof formation on all sides.

- 2.9 The application is accompanied by:
- a) Planning Statement
  - b) Ecological Impact Assessment
  - c) SuDS Scheme
  - d) Arboricultural Impact Assessment and additional tree details
  - e) Ecology and Trees Checklist
  - f) Planning Enforcement Conclusion.

### 3.0 Relevant Planning History

3.1 Insert relevant planning history for the site:

Reference	Development	Decision	Decision Date
20/05797/FUL	Redevelopment of the existing car park to include the construction of four semi-detached houses and five flats, landscaping and parking	NDAPP	6 July 2021

3.2 The following planning history is also of relevance to the current development proposal:

3.3 WR/855/71: Erection of 1 no. Superstore with storage and offices over, 5 no. shop with maisonette over and ancillary car parks for 90 cars and 5 no. garages with service area paving and landscaping. Permitted 6th August 1971.

3.4 19/07850/FUL former Budgens Store; Aries House) Change of use of a two storey building to a mixed use comprising class A1 (shops) and B1 (office) use on ground floor, and B1 (office) and C3 (residential) use (3 residential units) on first floor including fenestration and internal alterations and provision of an external staircase/bin store. The provision of new car parking spaces and the re-arrangement of the rear service yard for car parking including the demolition of a garage block. Permitted 11<sup>th</sup> March 2020.

3.5 19/07062/FUL Creation of new access to forecourt of retail units and 2 parking spaces. Refused 17<sup>th</sup> January 2020 – on the grounds the introduction of vehicles into an expansive pedestrianised area would be intrusive and visually harmful within the street scene. Furthermore it raises safety concerns associated with the potential conflict between the operation of the bus stop, vehicles entering and exiting the site and pedestrians. This would significantly reduce the amenity value of the area for pedestrian users of the space. These issues and concerns are considered to outweigh the perceived benefits associated with the provision of the small number of off street parking spaces proposed.

### 4.0 Policy Considerations and Evaluation

#### Principle and Location of Development

Wycombe District Local Plan (August 2019): CP1 (Sustainable Development), CP3 (Settlement Strategy), CP4 (Delivering Homes), DM33 (Managing Carbon Emissions, Transport and Energy Generation).

- 4.1 The site is located within the Flackwell Heath Settlement boundary, a Tier 3 area wherein limited development within the settlement boundaries is permissible, subject to compliance with the Development Framework and all other material planning considerations.

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

Wycombe District Local Plan (August 2019): DM22 (Housing Mix), DM24 (Affordable Housing), DM41 (Optional Technical Standards for Building Regulations Approval) Planning Obligations Supplementary Planning Document (POSPD)

- 4.2 The proposed development falls below the threshold for an affordable housing contribution in this area.

#### **Transport matters and parking**

Wycombe District Local Plan (August 2019): CP7 (Delivering the infrastructure to support growth), DM33 (Managing Carbon Emissions, Transport and Energy Generation) Buckinghamshire Countywide Parking Guidance (BCPG).

#### Loss of the existing car park.

- 4.3 To the north east of the site lies the former Budgens retail superstore, office accommodation and shops, fronting Straight Bit. The use of this site as a car park is linked to the use of those units via a condition. The superstore was closed circa 2012 and the car park was subsequently blocked off through the siting of concrete barriers around 2018.
- 4.4 Planning permission was granted for the car park as part of reference WR/855/71 for 'Erection of 1 no. Superstore with storage and offices over, 5 no. shop with maisonette over and ancillary car parks for 90 cars and 5 no. garages with service area paving and landscaping'. This permission was subject to a number of conditions. Condition 7 of WR/855/71 states that: the car park shall be made available for use, concurrently with the occupation of the buildings.
- 4.5 The issue of the loss of the existing car park was considered and addressed by the appeal Planning Inspector in relation to the previous planning application 20/05797/FUL, in December 2021.
- 4.6 In his deliberations, the Planning Inspector noted that the use of the car park was historically tied to Aries House by way of a planning condition. However he also noted from the results of a parking survey commissioned by the Council that
- "there was some parking pressure within the locality, at certain times of the day. This pressure coincided squarely with the drop-off and pick-up times for the local school. Outside of these hours, no tangible evidence has been presented to demonstrate that the local road network cannot adequately accommodate parking demand. This suggests that any parking pressures in the locality primarily stem from demand from parents/carers of school children during drop-off/pick-up."
- 4.7 The Planning Inspector goes on to state:
- "As private land, the car park was not intended to serve the general parking needs of drivers in and around Flackwell Heath, Consequently, the parking pressure identified in the survey data which arises during peak drop-off/pick-up times should not be attributed to the closure of the appeal site car park, nor should the car park be retained solely to reduce parking pressure during these times. Its purpose was to accommodate the parking needs of the approved development only."

Although, some of the parade of shops remain unoccupied, the largest retail unit is vacant, which appears to have been the case for a significant period of time. Whilst this unit remains vacant, the demand for parking by customers would undoubtedly have been reduced.”

- 4.8 The Planning Inspector supports his argument by citing the recent grant of planning permission in 2020, at Aries House. He states:

“Whilst not yet implemented, this permission would reconfigure the parking area immediately to the rear of Aries House. As part of the assessment of this application, this parking area alone was considered sufficient to meet the general parking demand in connection with the redeveloped site, without any reliance on the appeal site.

Given the length of time that the anchor store within Aries House has remained vacant, it is likely that the 2020 planning permission has been sought to secure the long-term viability of the parade. On this basis, the likelihood of the primary retail store re-opening pursuant to the Original Aries House Permission is remote. It follows therefore that the prospect of the appeal site car park being needed to accommodate a greater level of parking demand in conjunction with Aries House is similarly unlikely.”

- 4.9 The Planning Inspector concludes this issue by stating:

“Pulling these factors together, the use of the appeal site is specifically tied to the use of Aries House. It is not there to serve the general parking needs of the local community. As such, the appeal site should not be retained solely for the purpose of reducing parking pressures within the locality during school drop-off and pick-up times. Moreover, the granting of the 2020 planning permission suggests that the parking need for users of Aries House could now be accommodated by the land immediately to its rear, without any reliance on the appeal site,”

- 4.10 For the reasons set out above, the Planning Inspector concluded that the loss of the existing car park would not result in an unacceptable demand for parking in the locality which could result in on-street capacity issues and thus highway safety problems.

- 4.11 Concern has been raised by a local resident that the Planning Inspector has erred in his judgement regarding the use of the car park; its ties with Aries House and the consideration that it is not provided to serve the wider community. A concern has also been raised that the Planning Inspector has only skimmed through the documents submitted to him and therefore has missed some integral points.

- 4.12 However, the Planning Inspector’s judgement is final and could only be challenged at a judicial review – not through the consideration of a planning application. The time period for this has passed.

- 4.13 Concern has also been that the Local Planning Authority have erred in their previous judgement regarding the enforceability of the historic condition 7 of planning permission W/855/71. This condition stated:

“The parking and surface areas indicated on the deposited plans shall be constructed, surfaced and laid out and made available for use, concurrently with the occupation of the buildings, and these areas shall thereafter be maintained to the satisfaction of the Local Planning Authority. As regards the large car park, this shall be separated from the surrounding footpath and amenity strips on the north west, south west and south east sides by a kerb with an exposed face, 6 inches deep, and the car parking spaces numbered on the plan 20, 21, 22, 55, 56 and 57 shall be omitted.”

4.14 A local resident has commissioned the advice of an independent Counsel from Essex Chambers to provide a view with regard to the enforceability of Condition 7. In the judgement of Mr Richard Harwood QC, Condition 7 remains in force and could be enforced as a matter of law. However, just because a planning condition could be lawfully enforced, does not mean that it is expedient to do so.

4.15 The Councils Head of Planning Policy and Compliance has provided the following comment.

Notwithstanding its somewhat ambiguous wording, I am, on balance, satisfied that a breach of condition 7 could be enforced, however, there is still potential for this to be challenged and the Council would have to determine whether it was expedient and in the public interest to do so.

However, it remains my opinion that the breach is not expedient to pursue formal action against. This is because, when applying the planning merits in a test of expediency, there is no planning harm. This is supported by the recent appeal decision, where the Inspector found there is no parking deficiency save during school drop off and pick up times. This decision is a material consideration to which significant weight should be given, having been based upon parking survey results, as well as observations of the likely need now that the superstore is unoccupied. Further, such findings are consistent with the case officers position when the 2A Aries House development was permitted, that sufficient on-site parking can be provided without the need to reopen the larger car park area.

The decision not to enforce is made in accordance with our Local Enforcement and Monitoring Plan which states at 7.1.6 "Formal Enforcement Action. Almost all formal enforcement action is based on planning merits and can therefore only be taken where the development fails to meet the aims of the National and Local Plan Policies."

4.16 In addition, the judgement of the Planning Inspector, at the recent appeal must be considered. It is evident that the Planning Inspector has concluded that the need for the car park has been surpassed by time and events. Therefore, the Local Planning Authority would be unreasonable to pursue the compliance of Condition and could be open to an award of costs if such action were to be taken.

#### Trip Generation

4.17 In relation to the traffic generation resulting from the site, the Highway Authority would expect a residential house in this location to generate approximately 6 daily vehicular movements (two-way) and a residential flat to generate approximately 4 daily vehicular movements (two-way). Therefore, in terms of trip generation from the site, the four houses and four flats would have the potential to generate approximately 40 daily vehicular movements (two-way).

4.18 The proposed development will result in fewer daily vehicle movements to and from the site than its current lawful use as a car park. Therefore, the proposals will result in a decrease in pressure on the highway network and will not have a material impact on the capacity of the local highway network.

#### Access

4.19 The two existing access points onto the highway are proposed to be retained to serve the development. Having reviewed the submissions in support of the application, both

access points can achieve the requisite splays for an access located upon a road subject to a 30mph speed limit (i.e. 2.4m x 43m in both directions).

- 4.20 The access to the south of the site would provide access to 2(no) parking spaces whilst the access to the north of the site would provide access to the main parking area. This access would be a 4.8m wide shared surface which is suitable to serve a development of this size. The access should be upgraded in accordance with accordance with Buckinghamshire County Council's guide note 'Commercial Access Within Highway Limits' 2013 and this can be secured by way of condition given the increase in larger delivery and service vehicle using the access.

#### Parking Provision

- 4.21 The application site is located in Residential Zone B as set out in the Buckinghamshire Countywide Parking Guidance policy document. The application proposes the provision of 15(no) parking spaces.
- 4.22 Having assessed the proposed development using the BCPG, each of the proposed houses require 2(no) parking spaces and each of the flats require 1(no) space when taking into account the level of habitable accommodation featured. Therefore, the 8(no) residential units have a parking requirement on 12(no) parking spaces. The development would offer a level of parking beyond the optimum standard.
- 4.23 In accordance with the BCPG, bay parking spaces should be 2.8m x 5m whilst parallel spaces should have dimensions of 3m x 6m. The spaces shown on the submitted plans are of adequate dimensions.
- 4.24 The parking arrangement for the main parking area would allow for vehicles to park, turn and leave the site in a forward gear. Vehicles accessing parking spaces 14 and 15 would be required to reverse onto or off the highway. Given the residential, unclassified nature of Old Kiln Road, the Highway Authority does not consider this likely to result in a detrimental impact upon the public highway. Additionally, similar access and parking arrangements are not uncommon within the vicinity of the site.

#### Sustainability

- 4.25 Proposals for residential development generally need to be well connected to non-car modes of travel in order to meet the overarching sustainable development principles set out in the National Planning Policy Framework. Flackwell Heath benefits from bus services to High Wycombe and Bourne End providing an option for sustainable travel. Additionally, all necessary local amenities are located within close proximity of the site.
- 4.26 In light of the above, the Highway Authority raises no objections to this application, subject to conditions regarding access and parking provision being included on any planning consent that may be granted.

#### **Raising the quality of place making and design**

Wycombe District Local Plan (August 2019): CP9 (Sense of place), DM32 (Landscape character and Settlement Patterns), DM35 (Placemaking and Design Quality)

Housing Intensification SPD

Adopted Residential Design Guidance

- 4.27 Policy DM35 states that development is required to improve the character of the area and the way it functions and that development is required to create positive and attractive places.

- 4.28 As discussed above the site is, in effect, part of an unfinished perimeter block, surrounded by 2-storey pitched roofed, terraced dwellings to the south east, south west, and north west. To the north east, on the opposite side of Old Kiln Road, lies the three storey flat roofed complex of Aries House. Aries house is comprised of residential, retail and commercial units.
- 4.29 The impact of a similar residential development, for semi-detached dwellings and a block of flats, upon the character and appearance of the area was considered at the recent appeal in 2021.
- 4.30 In his considerations, the Planning Inspector noted that the appeal site was within a horseshoe arrangement of two storey terraced dwellings, with a height, scale and design which exuded a traditional uniformity that contributes positively to the character and appearance of the area. Although other dwellings run along the outer perimeter of the horseshoe, which vary in terms of their design, they are predominantly bungalows and other modest two storey dwellings and as such are commensurate in scale with the other dwellings in the horseshoe.
- 4.31 The Planning Inspector raised no objection to the proposed siting of the previously proposed dwellings and flats, but considered that their height would be *"noticeably greater than that of the corresponding dwellings around the perimeter. The difference would lead to an overly prominent and this incongruous development within an otherwise lower-level context, accordingly reducing the traditional qualities of the existing built form"*.
- 4.32 The applicant has taken the views of the Planning Inspector into account in the design of the current scheme. Although, the siting of the proposed structures remains the same, both the proposed semi-detached properties and the block of 4 flats has been reduced in height to 6.5m and 7.6m respectively.
- 4.33 Furthermore, the proposed semis would be constructed with a dual pitched roof which incorporates small gable features on the front and rear roof slope. The proposed block of flats would be constructed with a crown roof and a small pitched roof around all sides.
- 4.34 It is considered that the provision of a lower roof height will enable the development now proposed to blend in with the existing traditional scale of development in the surrounding area. The provision of a crown roof is not a traditional feature and would not normally be encouraged. However, in this instance, the crown will not be overly prominent in the street scene and will give a contemporary twist to the proposed apartment block – thereby distinguishing this form of development from the more traditional single dwellings.
- 4.35 It is considered that the proposed layout would respect the character of the area while acknowledging that this proposal represents a new chapter of development. Similarly, it is considered that the scale of the new buildings would be appropriate for their location; drawing influence the terraced dwellings making up the remainder of the perimeter block, semi-detached dwellings within the wider area, and the larger Aries House development.

#### **Amenity of existing and future residents**

Wycombe District Local Plan (August 2019): DM35 (Placemaking and Design Quality), DM40 (Internal space standards), DM40 (Internal space standards)  
Adopted Residential Design Guidance

- 4.36 The submitted plans show that the proposed development would provide a good standard of development for future occupiers, with sufficient private amenity space for all residents and sufficient off street car parking.
- 4.37 With regard to the amenities of adjacent residents, concern has been expressed regarding the retention of the existing right of way that provides access to the rear of dwellings in Old Kiln Lane. However, the applicant has previously confirmed that no changes are proposed to this situation as the right of way is outside of the application site, on land in separate ownership, over which the applicant has no control. It is probable that landscaping features could be planted adjacent to the existing right of way, which would be managed by either the future residents or by a separate management company.
- 4.38 Concern has also been expressed that the new dwellings will overlook the gardens of the existing properties and will result in a loss of light and overshadowing. However, the proposed development would comply with the Council's back to back separation distance guidelines, in relation to the semi-detached dwellings. Concerns have been raised with regards to the proximity of the new flats, however, the Council does not have specific back to side guidelines as the nature of the relationship is different.
- 4.39 Having regards to the separation distances involved and the orientation of the new buildings, the proposal would not be considered to have a significant impact upon the light levels to the neighbouring dwellings.
- 4.40 The Planning Inspector at appeal considered that the then proposed development would have no adverse impact upon the amenities of No.s 2 and 4 Old Kiln Road on the neighbouring residents in No's 2 and 4 Old Kiln Road.
- 4.41 On the basis of the above, the proposal would not therefore be considered to have a detrimental impact upon the residential amenities of the neighbouring properties.

#### **Environmental issues**

Wycombe District Local Plan (August 2019): DM20 (Matters to be determined in accordance with the NPPF)

- 4.42 The application site is located close to a former landfill site. Environmental Health has been consulted and has raised no objections, subject to the inclusion of the suggested informative.
- 4.43 In accordance with the Council's air quality SPD, eight electric vehicle charging points (one per dwelling) with a minimum rating of 32 amps must be provided prior to the occupation of the development. This can be secured by means of a condition

#### **Flooding and drainage**

Wycombe District Local Plan (August 2019): DM39 (Managing Flood Risk and Sustainable Drainage Systems).

- 4.44 The applicant site is not situated within a Flood Risk Zone 2 or 3 and no watercourse crosses the site.
- 4.45 The applicant has submitted a surface water drainage scheme in support of this application. Having reviewed this application, the Local Lead Flood Authority have not agreed the current scheme and have requested further information, regarding infiltration rates; possible discharge into highway drainage network instead of foul network and confirmation from Thames water that the surface water drainage can be accommodated within the foul network.

- 4.46 However, the form and footprint of development now proposed is similar to that previously considered under reference 20/05797/FUL. The LLFA accepted that a surface water drainage scheme could be achieved for the previous development and requested the imposition of a planning condition requiring a more detailed scheme to be submitted and approved prior to the commencement of development.
- 4.47 Given the similarities between the two developments, it would be unreasonable for the Local Planning Authority to request further information under this application when the provision of a surface water scheme has previously been accepted.
- 4.48 It is therefore reasonable to impose the same pre-start planning condition, (previously proposed for 20/05797/FUL) requiring that a detailed surface water drainage scheme be approved before development commences.

### **Trees and Ecology**

Wycombe District Local Plan (August 2019): DM34 (Delivering Green Infrastructure and Biodiversity in Development)

#### Trees

- 4.49 The development now proposed has the same relationship to the protected trees on site as that of the previous application 20/05797/FUL. No objection was raised regarding the impact of the development on the trees, at this time.
- 4.50 Although a small incursion into the RPA will occur, this has been reduced a 3.9% and 3.6% incursion into the RPA of T7 and T10 respectively. This has previously been deemed to be acceptable.
- 4.51 As a result, the relationship between the proposed building and retained trees on the eastern boundary is probably more sustainable, however issues relating to foundations details, location of services, and soil improvements within the RPA are still outstanding. The Council's Arboricultural Officer has considered the proposals and confirmed that the outstanding details could be addressed via a pre-commencement condition.
- 4.52 The arboricultural documents refer to removal of two 'low value trees' (T16 Rowan & T17 Birch, which are category B & C respectively). Removal of these trees may be acceptable, subject to suitable replacement planting as part of any landscape conditions. The soil in soft landscape areas will be heavily compacted. The design of the tree pits for these areas will be crucial to ensure that sufficient, good quality soil is available to enable the trees to reach maturity. The detailed tree pit design should also form part of the detailed landscaping scheme.
- 4.53 The arboricultural report is missing key information with regards to where the proposed site office, contractors parking, delivery/storage of material mixing of materials or other potentially harmful activities will be located/carried out.
- 4.54 This detail could be sought alongside a more comprehensive method of ground protection as part of an amended Arboricultural Method Statement to be agreed by means of a pre-commencement condition.
- 4.55 The current proposal includes several parking spaces within the RPA of protected trees. Further information has been submitted by the agent in an attempt to demonstrate that these parking bays can be created without the need for levels changes. On the basis of the indicative information put forward officers are satisfied that this element of the proposal can be agreed as part of the amended Arboricultural Method Statement referred to above.

- 4.56 The scheme raises significant concerns regarding the limited distance between trees and the proposed buildings and the potential pressures for future pruning in the relation to light levels, vermin, perceived risk and future structural damage.
- 4.57 Although the Council will retain a degree of control through the TPO application process, officers are concerned that it may be difficult to defend the refusal of inappropriate works if they are necessary in order to make the properties liveable. London plane may cause respiratory irritation to those living in close proximity to them, or be subject to diseases which can lead to the loss of moderate size branches within the crown. Such issues may be source of concern for residents living/parking beneath the trees.
- 4.58 The applicant's arboriculturist has commented on this concern by stating:  
London Planes are very-large growing trees, but they tolerate all levels of pruning (from limb reductions, to crown reductions to pollarding) and most trees growing within the streets of London are heavily pruned on a regular basis to ensure they do not outgrow their location. There is absolutely no reason why these trees cannot also be pruned on a regular basis to ensure there is adequate clearance between them and the proposed houses. Because the trees are protected, the Council has complete control over the level of pruning that can be carried out – and has every right to refuse excessive pruning.
- 4.59 Furthermore, with regard to the issue of the proposed replacement car parking surface, trial pits have demonstrated that there is a deep sub-base with tarmac wearing course (see supporting diagrams). There is therefore adequate existing depth to replace this with a new 'no-dig', permeable surface.
- 4.60 With regard to the proposed path between T3 & T4, issues may arise with levels if a no-dig surface is used, and therefore, the applicant's arboriculturist would recommend that paving slabs could be laid within the turf layer. This would cause no damage to tree roots and would not raise levels.
- 4.61 Subject to the submission of a fully detailed Arboricultural Method Statement, and a fully detailed landscaping scheme addressing the points above, on balance, it is considered that the impact upon the health and vitality of the trees and the subsequent impact of the trees upon the living conditions of the future occupiers, would not be so significant as to warrant the refusal of the application.

#### Ecology

- 4.62 Policy DM34 requires all development to protect and enhance both biodiversity and green infrastructure features and networks both on and off site for the lifetime of the development. No assessment has been provided with this proposal so it falls to the Local Planning Authority to consider what would be proportionate for the development proposed.
- 4.63 In this case the proposal relates to the redevelopment of a hard surfaced car park to create a new residential development with associated garden areas and landscaping.
- 4.64 Although the site is dominated by car park, the edges of the area are dominated by trees and other vegetation. There is a chance that protected or priority species could be using the site and there is likely to be some other general ecological value on site.

- 4.65 It is necessary to ensure that the mitigation hierarchy is followed and for a net gain in biodiversity to be achieved. None of the policy requirements can be assured without a starting point of an appropriate assessment.
- 4.66 An Ecological Impact Assessment undertaken by Ecology By Design in June 2021, has identified the site as having negligible ecological value and limited potential for protected species. The report includes recommendations to minimise and/or mitigate for; the damage or destruction of active bird nests, the destruction of a potential bat roost on tree T10, and the potential harm to badgers and other wild mammals. In addition, the report also includes recommendations to enhance habitats and increase opportunities for roosting bats and nesting birds within the site.
- 4.67 Subject to the development being carried out in accordance with the recommendations contained within the Ecological Impact Assessment, it is considered that the proposal could be carried out without adversely affecting local wildlife and ecology. Furthermore, once fully implemented, in accordance with a landscaping scheme incorporating the plant species identified within the report, the proposal would be considered to achieve a net gain in biodiversity.

#### **Building sustainability**

Wycombe District Local Plan (August 2019): DM41 (Optional Technical Standards for Building Regulations Approval)

- 4.68 It is considered necessary to condition water efficiency in accordance with Policy DM41
- 4.69 The proposed flats would incorporate level access externally and a central staircase and lift to the upper floor.

#### **Other**

- 4.70 Whilst the development as currently proposed may be acceptable, given the particular issues in respect of trees, parking, relationships with neighbouring buildings etc, it is considered appropriate in this instance to impose a condition removing the permitted development rights for all development falling within Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the Order”) as amended.

#### **Infrastructure and Developer Contributions**

Wycombe District Local Plan (August 2019): CP7 (Delivering the infrastructure to support growth)

DSA: DM19 (Infrastructure and delivery)

- 4.71 The development is a type of development where CIL would be chargeable.

### **5.0 Weighing and balancing of issues / Overall Assessment**

- 5.1 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 5.2 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 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 (such as CIL if applicable), and,
  - c. Any other material considerations
- 5.3 As set out above it is considered that the proposed development would accord with the development plan policies.
- 5.4 The Human Rights Act 1998 Article 1 the protection of property and the peaceful enjoyment of possessions and Article 8 the right to respect for private and family life, have been taken into account in considering any impact of the development on residential amenity and the measures to avoid and mitigate impacts. It is not considered that the development would infringe these rights.

## **6.0 Working with the applicant / agent**

- 6.1 In accordance with paragraph 38 of the NPPF (2019) the Council 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.
- 6.2 The Council 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.
- 6.3 In this instance the application was acceptable as submitted and no further assistance was required.

## **7.0 Recommendation**

- 7.1 Grant planning permission subject to the following conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As amended).
- 2 The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers BC1; PL-01D; PL-02C; PL-03C; PL-05; PL-06; PL-400C; PL-401C and PL-402A; unless the Local Planning Authority otherwise first agrees in writing.  
Reason: In the interest of proper planning and to ensure a satisfactory development of the site.
- 3 Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of the materials and finishes for the development shall be submitted to and approved in writing by the Local Planning Authority before any work to the external finish of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.  
Reason: To secure a satisfactory external appearance.

- 4 Notwithstanding any indication of materials which may have been given in the application, a schedule and/or samples of all surfacing materials shall be submitted to and approved in writing by the Local Planning Authority before any work to the finished surfaces of the development takes place. Thereafter, the development shall not be carried out other than in accordance with the approved details.  
Reason: To secure a satisfactory appearance.
- 5 No other part of the development shall be occupied until the existing means of access has been altered in accordance with the approved drawing and constructed in accordance with the Buckinghamshire Council guide note "Commercial Vehicular Access Within the Public Highway".  
Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development
- 6 The scheme for parking and manoeuvring indicated on the submitted plans shall be laid out prior to the initial occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.  
Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway
- 7 Unless otherwise first agreed in writing by the Local Planning Authority, eight 32amp electric vehicle charging points shall be installed (one per dwelling) and made available prior to the initial occupation of the development hereby approved. The electric vehicle charging points shall thereafter be retained for the life of the development.  
Reason: To comply with the air quality SPD and, to reduce the carbon emissions and the impact on the health of Nitrogen Dioxide emissions from the development
- 8 Prior to the commencement of any development on the site, a fully detailed landscaping scheme shall be submitted and approved in writing by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved details, with any variation first agreed in writing. The measures contained within the approved scheme shall thereafter be retained on site unless otherwise approved in writing by the Local Planning Authority.  
The landscaping scheme shall include:
- Details of all soft landscaping, incorporating some plant species identified within the recommendations of the Ecological Impact Assessment,
  - Details of all hard landscaping,
  - Details of tree planting, including species, size, planting methodology and soil volume (as informed by the Canopy Cover SPD),
  - The location, height, type and proposed material of any boundary features or means of enclosure
- Reason: The reason for this pre-commencement condition is to ensure a satisfactory form of landscaping can be implemented, to ensure a satisfactory form of development, in the interest biodiversity and to ensure that the canopy cover of the site is maximised, in line with the requirements of Policy DM34.

9 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which, within a period of 3 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.  
Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.

10 Unless otherwise first agreed in writing by the Local Planning authority, the development hereby approved shall only be carried out in accordance with the recommendations contained within the Ecological Impact Assessment undertaken by Ecology By Design in June 2021. The mitigation and enhancement measures shall thereafter be retained on site, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development safeguards protected wildlife and achieves a measurable net gain in biodiversity in line with the requirements of Policy DM34.

11 No works shall take place until a revised fully detailed Arboricultural Method Statement (AMS) has been submitted to and approved in writing. Thereafter the development shall not take place other than in accordance with the approved details. The revised AMS shall include the following detail:

- location for site office, contractors parking, delivery and storage of materials, mixing of materials and other potentially harmful activities to be carried out,
- ground protection details,
- building foundations details,
- location and method of installation of services,
- existing and proposed site levels of the site, with particular attention to those either inside the RPA of the protected trees or within 3 metres of the RPA,
- alternative details for a path between T3 & T4
- soil improvements within the RPA

Reason: The reason for this pre-commencement condition is to ensure that the proposed development will be carried out in a manner which will avoid any harm to the trees which are to be retained, in the interests of the health and vitality of the trees themselves, as well as the visual amenities of the surrounding area.

12 Details of facilities to be provided for the storage of bicycles and refuse bins for the new houses shall be submitted to and approved in writing by the Local Planning Authority before any development above damp proof course take place. The facilities for bin and cycle storage for the whole development shall be provided in accordance with the approved details before the development that they relate to is first occupied and thereafter the facilities shall be permanently retained.

Reason: To ensure a satisfactory appearance and in the interests of the amenities of the future occupiers.

13 The development hereby approved shall not be occupied until such time as the associated balconies/amenity areas have been laid out, any associated fencing or privacy screening installed and the areas made available for use by the future occupiers, in accordance with the approved details. The amenity areas shall thereafter be permanently retained.

Reason: To ensure a satisfactory appearance and in the interests of the amenities of the occupiers and adjoining residents.

14 The development, hereby permitted, shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.

Reason: In the interests of water efficiency as required by Policy DM41 (Optional Technical Standards for Building Regulations Approval) of the Local Plan.

15 No works (other than demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components
- Detailed assessment of the viability of including additional above ground SuDS components within the scheme, components may include, but are not limited to, tree pits, rain gardens, green roofs and active rainwater harvesting. Justification for exclusion must be provided where necessary
- Ground investigations including:
  - Infiltration rate testing in the form of either constant head tests or falling head tests, completed at the effective depth and location of the proposed component. Borehole logs and locations must be provided
  - Demonstration of the buffer distance required between the deep borehole soakaway and all buildings and structures, informed by a suitably qualified geotechnical engineer
- Proposed discharge rate limited to 1l/s
- Drainage layout detailing the connectivity between the dwellings and the drainage components, showing pipe numbers, gradients and sizes, complete together with storage volumes of all SuDS components
- Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
- Construction details of all SuDS and drainage components, including cover levels and invert levels along with details of materials.
- Details of how and when the full drainage system will be maintained, this should also include details of who will be responsible for the maintenance
- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration of flow direction

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

- 16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), no development falling within Part 1 of Schedule 2 shall be carried out without the prior, express planning permission of the Local Planning Authority.

Reason: In order that the Local Planning Authority can properly consider the effect of any future proposals on the character and amenity of the locality.

#### INFORMATIVE(S)

- 1 In accordance with paragraph 38 of the NPPF2 Buckinghamshire Council 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. Buckinghamshire Council 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.

In this instance the application was acceptable as submitted and no further assistance was required

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

Highway Development Management (Delivery)  
Buckinghamshire Council  
6th Floor, Walton Street Offices  
Walton Street,  
Aylesbury  
Buckinghamshire  
HP20 1UY

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

4. It is an offence under S151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site
5. No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under S137 of the Highways Act 1980
6. Any deep borehole soakaway associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted.
7. Any deep borehole soakaway associated with this development will require an Environmental Permit under the Environmental Permitting Regulations 2010, from the Environment Agency, unless an exemption applies. The applicant is advised to contact the Environment Agency for further advice and to discuss the issues likely to be raised. You should be aware that the permit may not be granted.

## **APPENDIX A: Consultation Responses and Representations**

### Councillor Comments

#### **Cllr Alexander Barron:**

1. This car park has been in existence for over 45 years, and was provided as a civic amenity for the benefit of all of Flackwell Heath and visitors to the shopping areas. The statement that the car park has not been used since 2014 is due to the owners sealing the car park from use by concrete structures denying entrance and exit to the car park. It was not because of dis-use!
2. The proposal to build a pair of semi-detached houses and a block of flats is out of character for this estate. The estate comprises Terrace, Bungalows, and Detached houses.
3. The planned roof height of the block of flats exceeds the standard for the original development, and due to the proximity with the road will dominate the street scene. Whilst noting that the inspector considered that the block of flats would not harm the character of the area, it is worth noting that the inspector does not live in Buckinghamshire and was not familiar with the area or parking issues in particular for Flackwell Heath.
4. The site plan ( a contract with planning department - for approval) shows hedges and trees being planted in land not owned by the developer, and will impede the access of the terraced houses to their back gardens.
5. This development, if approved, will remove a further six to eight parking places from the centre of the village resulting in further congestion to other sites in Old Kiln Road.

#### **Cllr David Johncock.**

There remains serious local concern about development on this site and Enforcement is currently reviewing its position on the possible enforcement of an existing planning condition. Pending the results of this review and given that Members have to request call-ins within 14 days of validation, I would therefore wish to provisionally request that, if officers are minded to approve this application, that it be referred to the local Planning committee for determination.

### Parish/Town Council Comments

CWPC notes the positive efforts on the part of the applicants to reflect the comments of the appeal inspector but we nonetheless still strongly object to this application for three main reasons. Firstly, we now know that the car park was originally intended to be used as a public carpark generally and was not solely for the retail outlets in Aries House. The condition in the original planning permissions to provide the car park should therefore be robustly enforced by the planning authority. The fact is that the parking survey that was undertaken by the Council for the original application was totally inadequate and didn't reflect the general situation on parking in the village. There is a desperate shortage of parking particularly in the village centre and this planned development will undermine the vitality and viability of Flackwell Heath forever. Secondly, and as we mentioned in our comments on the original application, we are concerned with the proposal to plant trees on the footpath that provides access to the original houses that back onto the proposed development. The residents need to be able to access their back gardens from the footpath and we would question whether this land falls within the redline development area. These trees therefore need to be located on the land owned by the developers and planted in such a location that the roots don't undermine that footpath over the course of time. Thirdly, although the proposal for the flats now include a pitched roof to help make it fit in with the general design of houses in Old Kiln Road, we nonetheless still consider that the ridge height is still too high and that, as a result, the block of flats are out of keeping with

the character of the immediate area. They should therefore be reduced to 2 storeys or at worst 2½ storeys.

### Consultation Responses

#### **Highway Authority:**

Comments: No objection subject to conditions regarding access and parking.

#### **Environmental Health:**

Comments: no objection raised subject to provision of electric car charging points

#### **Buckinghamshire Council LLFA (non Major Suds)**

Object to scheme and require further information regarding infiltration rates; possible discharge into highway drainage network instead of foul network and confirmation from Thames water that the surface water drainage can be accommodated within the foul network.

#### **Arboricultural Officer**

Comments:

Incursions into RPA

The report notes the footprint results in a 3.9% and 3.6% incursion into the RPA of T7 and T10 respectively. Previous comments regarding incursions into the RPA still apply, however it is acknowledged that the amount has been reduced that the relationship between the proposed building and retained trees on the eastern boundary is probably more sustainable. Issues relating to foundations details, services and soil improvements within the RPA could be addressed by condition if the case officer is minded to approve.

Mitigation planting

In order to satisfy the requirements of DM34, the development is required to protect and enhance both biodiversity and green infrastructure features and networks both on and off-site for the lifetime of the development. It must also demonstrate how existing green infrastructure and biodiversity assets will be maximised and how new green infrastructure and biodiversity assets will be maximised.

It's noted that the amended design has reduced the amount of new trees from 30 to 20 and there is now an additional parking space

The arboricultural documents also refer to removal of two 'low value trees' (T16 Rowan & T17 Birch, which are category B & C respectively). Removal of these trees may be acceptable, subject to suitable replacement planting as part of any landscape conditions.

Although the trees in the hard landscaped areas have been removed in the updated proposal, the soil in soft landscape areas will be heavily compacted. Tree pit design in these areas will still have to ensure sufficient, good quality soil to enable the trees to reach maturity. This could also form part of any landscape conditions.

Although compliance with DM34 has not demonstrated, this could be achieved through the provision of additional detail.

Tree Protection

It is not clear from the TPP where the site office, contractors parking, delivery/storage of material mixing of materials or other potentially harmful activities will be carried out. This detail could be sought as part of a detailed/amended AMS pre-commencement.

The report also notes that the existing hard surfaces of the car park will be left in site during construction and only removed (and replaced) at the landscaping stage. Retention of the hardstanding is not going to be possible in the areas immediately around the proposed dwelling. In these areas a more comprehensive method of ground protection will need to be employed. This could be addressed in an amended AMS pre-commencement.

Parking bays within the RPA

The current proposal includes several parking spaces likely to changes of levels within the RPA of protected trees. It's not clear how the applicant proposes to create these parking bays without levels changes (which negates the purpose of no-dig). It would be useful to see levels details prior to a decision but, if the case officer is minded to permit, levels details by condition in these areas is recommended.

Concerns regarding future pressures are unchanged -

The limited distance between trees and the proposed buildings has the potential to generate concerns regarding light, vermin, perceived risk and future structural damage. Although the Council will retain a degree of control through the TPO application process, it may be difficult to defend the refusal of inappropriate works if they are necessary in order to make the properties liveable.

London plane may cause respiratory irritation to those living in close proximity to them. This is a result of the pollen and of trichomes (hairs) on the back of the leaves which become airborne.

Diseases of plane such as Massaria, known to be within the Wycombe area, can also lead to the loss of moderate size branches within the crown. This again may be source of concern for residents living/parking beneath the trees.

### **Ecology Officer**

Comments: The assessment of the impacts on protected species and habitats are considered to be appropriate. The planning approval is subject to the following conditions:

The development shall be implemented in accordance with Recommendations R1-R8 presented in Section 5 of the Ecological Impact Assessment – Ecology by Design (June 2021). Any variation to the agreed plan shall be agreed in writing with the local planning authority before such change is made. The condition will be considered discharged following a written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly.

### **Representations**

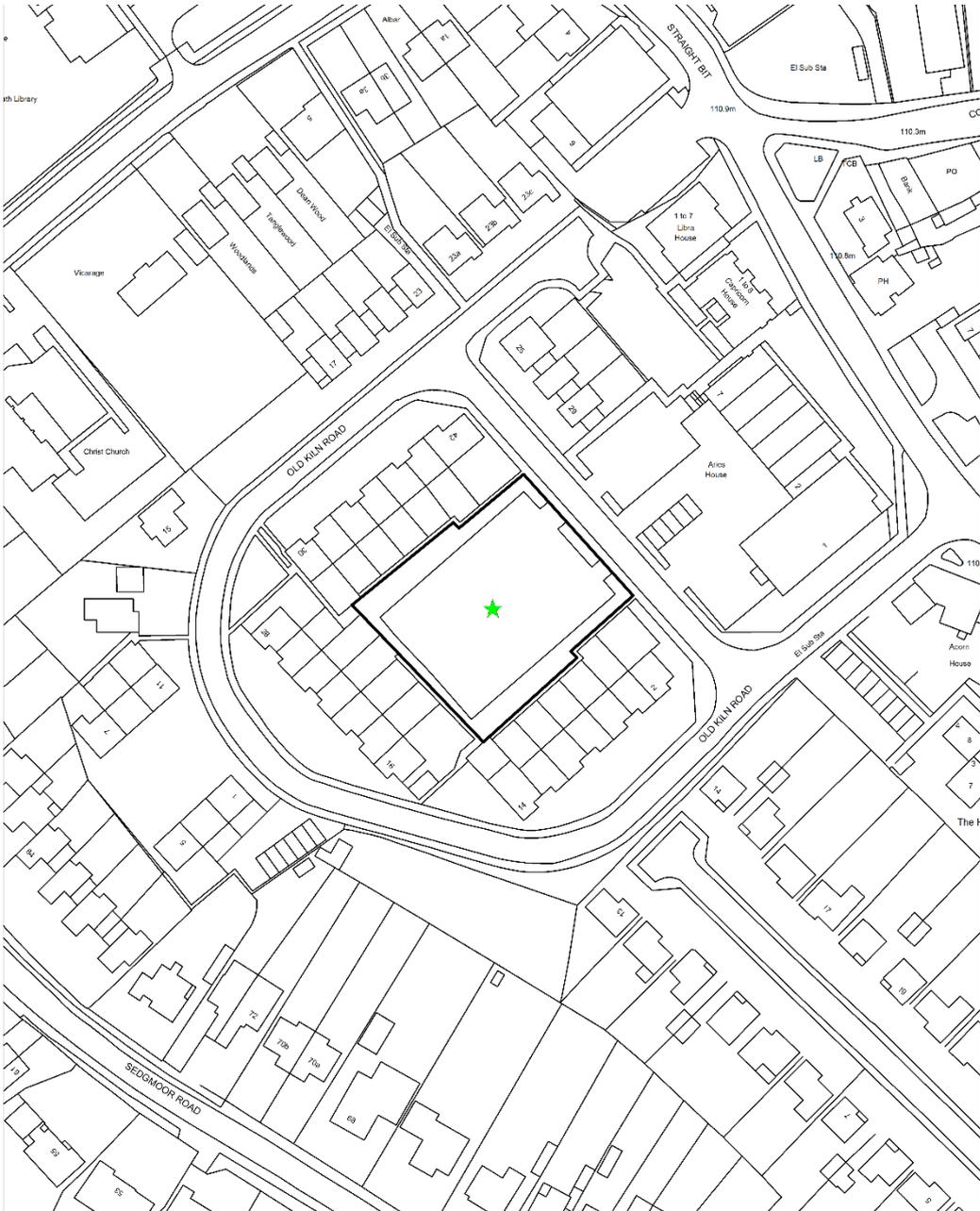
Objections have been received from local residents and the wider community. The grounds of objection raised include:

- Overdevelopment of the plot
- Out of character and scale with surrounding area
- Contrary to adopted Residential Design Guidance
- Loss of existing car park
- Accuracy of previous parking survey
- Loss of highway safety
- Increased parking congestion
- New proposed gym use will exacerbate parking congestion
- Proposed trees will block existing path
- Loss of light to adjacent properties
- Loss of privacy to adjacent dwellings
- New dwellings too close to existing properties

- Loss of amenities to the neighbouring properties
- Loss of trees/harm to trees
- Who will maintain new trees etc?
- Enforcement Teams assessment of historic planning condition is incorrect. Historic planning condition can be lawfully enforced.

# APPENDIX B: Site Location Plan

22/0527/FUL  
Scale 1/1250



Planning Committee  
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