



Report to Buckinghamshire Council – (North Area) Planning Committee Report

Application Number:	22/02679/AOP
Proposal:	Demolition of garage and erection of up to four dwellings all matters reserved
Site location:	Land At, Buckingham Street, Tingewick, Buckinghamshire
Applicant:	Mr Colin Beamish
Case Officer:	Faye Hudson
Ward affected:	BUCKINGHAM WEST
Parish-Town Council:	TINGEWICK
Valid date:	26 July 2022
Determination date:	20 September 2022
Extension of time:	5 October 2023
Recommendation:	Refusal

1.0 Summary & Recommendation / Reason for Planning Committee Consideration

- 1.1 This application seeks outline permission with all matters reserved for the demolition of a garage and the erection of up to four dwellings. The matters to be reserved are appearance, means of access, landscaping, layout, and scale. Therefore, the application is to solely be determined on the acceptability of the principle of four dwellings being erected on the site.
- 1.2 This application is being referred to the North Area Planning Committee as Buckinghamshire Council has ownership interests in the site combined with the presence of an Option Agreement. Therefore, for the sake of transparency, the application is to be determined by the Committee.
- 1.3 For the reasons set out in Section 8.0 of this report, Officers recommend that the application be **REFUSED**.

2.0 Description of Site and the Proposed Development

- 2.1 This application seeks outline permission with all matters reserved for the demolition of a garage and the erection of up to four dwellings. The matters to be reserved are appearance, means of access, landscaping, layout, and scale. Therefore, the application is to solely be determined on the acceptability of the principle of four dwellings being erected

on the site.

- 2.2 Tingewick Conservation Area is located to the west of the application site, directly abutting the north-western corner of the site. The site largely falls within an amber Great Crested Newt impact risk zone, with the north-western corner falling within a red impact risk zone. There is a public right of way (TIN/26/1 – Bernwood Jubilee Way) to the north of the site. The rear portion of the site is subject to a Tree Protection Order (TPO) (ref. 23/00014/TPO) which was placed on the site during the duration of this planning application.
- 2.3 The site also falls within a SSSI impact risk zone for Tingewick Meadows (located to the south-west of Tingewick), a mineral safeguarding area for Clay, Silt, Sand, and Gravel deposits, Flood Zone 1, and is deemed to be at very low risk of surface water flooding. Buckingham Street, to the south of the site, is considered to be at low risk of surface water flooding.
- 2.4 According to the Officer Report for the previous application at this site (ref. 01/01590/AOP) the site formerly accommodated 7 prefabs and a number of garages as well as an area for car parking, but there was little visible evidence at the time, other than a lamppost, of this former use. Today, there is a garage located towards the front of the plot with an associated, small area of hardstanding. The rear of the site is covered with trees.
- 2.5 The application is accompanied by:
- *Location Plan*
 - *Site Plan as existing*
 - *Site Plan as existing detail*
 - *Site Plan as proposed*
 - *Site Plan as proposed detail*
 - *Preliminary Arboricultural Impact Assessment*
 - *Preliminary Ecological Appraisal and Preliminary Roost Assessment*
 - *Planning Statement*
 - *Heritage Statement*
 - *Flood Risk Assessment and Sustainable Drainage Strategy*
 - *Reasonable Risk Avoidance Measures Method Statement for GCNs*
 - *Protected Species Investigations*
 - *Woodland Categorisation*
 - *Biodiversity Net Gain Report*
 - *Biodiversity Net Gain Metric*
 - *Preliminary Ecological Appraisal Woodland Reassessment*

3.0 Relevant Planning History

Reference: 01/01590/AOP

Description: Site for residential development

Decision: Recommended for Approval (Committee)

Date: Not Proceeded With on 2 Sept 2010

Officer Note: This application was submitted on behalf of Aylesbury Vale District Council on 3 July 2001. The application was recommended for approval by Officers at Planning Committee on 27 June 2002 where Members resolved to support the proposal subject to completion of S106 agreement to secure off-site open space. As the Council is unable to enter into an agreement with itself, the application was held in abeyance pending disposal of the site, at which point a purchaser could enter into the agreement and a formal decision issued. The site did not subsequently proceed to sale given land ownership issues. The Council finally disposed of the application on 2 September 2010.

4.0 Representations and Consultee Comments

See Appendix A.

5.0 Policy Considerations and Evaluation

Vale of Aylesbury District Local Plan (VALP) (September 2021):

- S1: Sustainable development for Aylesbury Vale
- S2: Spatial strategy for growth
- S3: Settlement hierarchy and cohesive development
- S7: Previously developed land
- D3: Proposals for non-allocated sites at strategic settlements, larger villages and medium villages
- H1: Affordable housing
- H6a: Housing mix
- H6c: Accessibility
- T1: Delivering the sustainable transport vision
- T5: Delivering transport in new development
- T6: Vehicle parking
- T7: Cycle routes and footpaths
- T8: Electric vehicle parking
- BE1: Heritage assets
- BE2: Design of new developments
- BE3: Protection of amenity of residents
- BE4: Density of new development
- NE1: Biodiversity and geodiversity
- NE4: Landscape character and locally important landscape
- NE8: Trees, woodlands, and hedgerows
- C3: Renewable energy
- C4: Protection of public rights of way
- I1: Green infrastructure
- I2: Sports and recreation
- I4: Flooding
- I5: Water resources and wastewater infrastructure

Neighbourhood Plan:

Tingewick has no 'made' Neighbourhood Plan.

Minerals and Waste Local Plan (MWLP) (July 2019):

- Policy 1: Safeguarding Mineral Resources

Officer Note: Whilst the application site falls within a minerals safeguarding zone, the development is exempt under Box 1 of the MWLP. Therefore, no minerals assessment is required.

Adopted Design Guide(s) / SPDs:

- Vale of Aylesbury Local Plan Design Supplementary Planning Document (2023)
- Supplementary Planning Document: Biodiversity Net Gain (July 2022)
- New houses in Towns and Villages
- Tingewick Conservation Area document (2008)

National Planning Policy:

- National Planning Policy Framework (NPPF) (2023)
- National Planning Practice Guidance
- National Design Guide (2021)

Principle and location of development, including the impact on trees

VALP Policies: S1, S2, S3, S7, D3, and NE8

- 5.1 Policy S1 of the VALP provides support for sustainable development and seeks to secure development that improves the economic, social and environmental conditions in the area. Policy S1 seeks to ensure that all development is sustainable and follows the presumption in favour of sustainable development.
- 5.2 Policy S2 of the VALP sets out the spatial strategy for growth within the Vale, and states that the VALP focusses the majority of growth in Aylesbury, Buckingham, Winslow, Wendover and Haddenham and adjacent to Milton Keynes.
- 5.3 Policy S3 of the VALP states that the scale and distribution of development should accord with the settlement hierarchy set out within Table 2, the site allocation policies that arise from it, and the requirements of Policy S1. Specific policies for each of the settlement hierarchy categories are set out in the Strategic Delivery section (policies D1 – D5). Other than for specific proposals which accord with policies in the plan to support thriving rural communities and the development of allocations in the Plan, new development in the countryside should be avoided.
- 5.4 Policy S7 of the VALP provides support for support for the re-use of previously developed (brownfield) land in sustainable locations subject to site-specific considerations and to other policies in the Local Plan. The NPPF defines previously developed land (PDL) as:

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or

was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape

- 5.5 Whilst the site does benefit from an existing, permanent structure (the garage and associated hardstanding), Officers consider that the remainder of the site, which forms the majority of the site, falls within the exclusions set out in the NPPF definition in that *'the remains of a permanent structure or fixed surface structure have blended into the landscape'*. Therefore, only the garage and limited area of hardstanding would comprise PDL, with the rest of the site considered to be undeveloped land. As such, policy S7 of the VALP, and the NPPF at section 11, is not considered to provide support for the scheme as a whole.
- 5.6 Policy D3 of the VALP provides support for housing developments in strategic, larger, and medium settlements, subject to the scheme meeting the criteria within the policy. Tingewick is classified as a medium village with some provision of key services and facilities, making it a moderately sustainable location for development. Policy D3 is split into two sections: small scale development and infilling, and larger scale development. In this instance, the proposed scheme is considered to be small scale development and infilling for the purposes of policy D3. As such, for permission to be granted, the proposed scheme must comply with either criterion a. or b. of the policy.
- 5.7 Criterion a. of Policy D3 refers to the infilling of small gaps in developed frontages in keeping with the scale and spacing of nearby dwellings and the character of the surroundings. Whilst the proposal would 'infill' the front section of the site between the existing dwellings, given the site area extend beyond this and wraps behind the existing linear built form of Buckingham Street, it is considered this criterion is not applicable for this proposal.
- 5.8 Turning to criterion b. of the policy, this sets out that permission will be granted for development that consolidates existing settlement patterns without harming important settlement characteristics, and does not comprise partial development of a larger site. Officers consider that criterion (b) is the most appropriate criterion of policy D3 against which to assess the proposal.
- 5.9 Whilst Officers believe that development of the site for up to four dwellings could potentially accord with the broad aims of policy D3(b) in so far as at the reserved matters stage it could be ensured the means of access, layout, landscaping and scale of development would consolidate the existing settlement pattern, given the presence of woodland covering much of the site (protected by an area TPO), the proposal would ultimately result in harm to important settlement characteristics.
- 5.10 Policy NE8 of the VALP sets out that development that would result in the unacceptable loss of, or damage to, or threaten the continued well-being of any trees, hedgerows,

community orchards, veteran trees or woodland which make an important contribution to the character and amenities of the area will be resisted. The Council's Tree Officer, following a visit to the site, concluded that the tree groups on site are considered to be a single woodland, due to their closed canopy, natural regeneration throughout, and pockets of understorey. It was concluded that any development on the site, and particularly four dwellings, would undoubtedly require considerable levels of tree loss. The exact design and landscaping would be considered at reserved matters stage, but it is anticipated that by allowing the principle of development to be established on site, there will be degradation of the existing woodland and there would be insufficient space for this to be compensated for.

- 5.11 On 1 June 2023, the Council afforded the woodland statutory protection through the provision of a Tree Preservation Order (TPO). Reasons for making the TPO include concerns over the degradation of woodland and the impact on both visual amenity and character of the area, which come as a direct result of the tree removals, which would be required to accommodate the maximum quantum of dwellings.
- 5.12 Trees are a fundamental aspect of the character and appearance of the area and therefore the loss, or significant damage, of these trees would result in unacceptable harm to the characteristics of the site and wider area. As such, when having regard to the advice from the Council's Trees Team, Officers consider that the maximum quantum of dwellings (i.e., up to four dwellings) could not be satisfactorily accommodated within the site due to the presence of these protected trees. Indeed, it is apparent from the indicative proposed site plans that to accommodate four dwellings, many of the existing trees and much of the woodland on the site would require removing to accommodate this quantum of development. The level of tree removal required to facilitate the provision of up to four dwellings would harm important settlement characteristics contrary to policy D3 criterion b. and policy BE2 of the VALP.
- 5.13 Therefore, it is concluded that the proposed development would not respect the prevailing character of the area and the maximum number of dwellings proposed could not be satisfactorily accommodated within the site taking the TPO into account. When having regard to the extent of the site covered by the TPO, it does not appear that four dwellings could be satisfactorily accommodated within the remaining area of the site not covered by trees without harmful impacts arising in relation to the density of development, amenity and landscape/ecology.
- 5.14 In addition to the above, the land levels of the site are considerably different from that of the surrounding area. The site sits at a much higher elevation than the existing development either side of the site on Buckingham Street. It is considered that significant land level changes would be required to overcome any amenity concerns (see the residential amenity section for more detail). Any land level changes to the site would likely be harmful to the vitality and viability of the existing TPO protected trees within the site, which would result in unacceptable damage to, or loss of, the trees. Officers consider that four dwellings cannot be accommodated and the viability of the trees on site retained

given the land level changes the proposed development would necessitate. The loss of the trees within the site would harm important settlement characteristics, contrary to policy D3 criterion b. and policy BE2 of the VALP.

- 5.15 Finally, as noted by the Council's Ecologist and Tree Officer, policy NE8 of the VALP requires developers to aspire to retain a minimum of a 25m natural buffer around woodlands for the benefit of wildlife, incorporating a dark corridor with no lighting. It is considered that there would be insufficient space within the site to provide any notable buffer zone around the woodland within the site and accommodate the full quantum of development applied for (up to four dwellings), thereby failing to ensure a harmonious relationship between the built and natural environment and have adequate regard to wildlife benefits. The proposal therefore fails to accord with policy NE8 of the VALP.
- 5.16 Whilst it is noted that planning permission is sought in outline with all matters reserved, it is necessary for Officers to assess whether the site has the potential to accommodate the quantum of development applied for. In summary, Officers are not satisfied that up to four dwellings can be sufficiently accommodated within the site without significant harm to protected trees, which form an important settlement characteristic of the site and wider area. The proposal therefore fails to comply with criterion b. of policy D3 of the VALP and is unacceptable in principle. In addition, given the extent of the area TPO, Officers are not satisfied that the 25metre buffer for the benefit of ecology, required by policy NE8 of the VALP, between the trees and any development can be sufficiently accommodated given the maximum quantum of development.
- 5.17 As such, the proposed development is unacceptable in principle and fails to comply with policies D3, BE2, and NE8 of the VALP, and the advice within the NPPF at Sections 12 and 15, and chapters I1 and N1 of the National Design Guide.

Affordable Housing, Housing Mix, and Accessibility

VALP Policies: H1, H6a, and H6c

- 5.18 Policy H1 of the VALP requires schemes of 11 or more dwellings (gross) or sites of 0.3ha or more to provide a minimum of 25% affordable homes on site. The application site extends to approx. 0.35ha and therefore exceeds the limit as set out in policy H1 of the VALP. As such, the requirement for the provision of affordable housing is triggered in accordance with policy H1 of the VALP. Based on a scheme for up to four dwellings, to accord with the requirements of VALP policy H1, a minimum of one dwelling would be required to be an affordable unit.
- 5.19 Within the application submission, no reference is made to the provision of affordable housing as part of the application proposed, nor has a means of securing affordable housing been put forward. It is noted that based on the indicative site plans submitted, none of the proposed dwellings appear to be of a scale such to provide affordable housing. It is however accepted that these proposed plans are indicative only. As such, based on the information submitted, the application fails to make provision for and adequately secure affordable housing. The proposal is therefore contrary to policy H1 of the VALP.

- 5.20 Policy H6a of the VALP explains that new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities. Given this application is outline only, details of the housing mix have not been provided. In the event of outline planning permission being granted, a condition would have been imposed to require any reserved matters scheme to demonstrate compliance with the requirements of policy H6a.
- 5.21 Policy H6c of the VALP advises that all development will be required to meet and maintain high standards of accessibility so all users can use them safely and easily. Development will need to meet at least category M4(2) accessible and adaptable dwellings standards (as set out within Building Regulations) unless it is unviable to do so which will need to be demonstrated by the applicant and independently assessed. Had the application been recommended for approval, compliance of any reserved matters scheme with this standard would have been secured via condition.

Transport matters and parking

VALP Policies: T1, T5, T6, T7, and T8

- 5.22 Policy T1 sets out that the strategy to deliver sustainable transport in Aylesbury Vale is based on encouraging modal shift with greater use of more sustainable forms of transport and improving the safety of all road users. Policy T5 explains that new development will only be permitted if the necessary mitigation is provided against any unacceptable transport impacts which arise directly from that development. Policy T6 seeks to secure an appropriate level of parking in accordance with the standards set out in Appendix B. Policy T8 requires all new development to provide electric vehicle charging points.
- 5.23 This application is outline only, with all matters reserved, including access and layout. However, given the location of the development in a moderately sustainable settlement, with Tingewick being identified as a 'medium' village within the VALP, the principle of housing at this site is acceptable in transport sustainability terms. Having regard to the comments from the Highways Team, Officers are content that at reserved matters stage, a satisfactory means of access could be achieved from Buckingham Street.
- 5.24 The internal layout of the site, including parking, garaging, and manoeuvring space, would have been assessed at reserved matters stage. This would include assurance that the requirements of policies T6 and T8 in terms of car parking and electric vehicle charging, would be met. Details of other aspects such as garaging and cycle parking would also be sought at this stage.

Raising the quality of place making and design

VALP Policies: BE2 and NE4

- 5.25 Policy BE2 of the VALP states that all new development proposals shall respect and complement the following criteria:
- a. The physical characteristics of the site and its surroundings including the scale and

context of the site and its setting

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

- 5.26 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.
- 5.27 Given this application is outline only, with all matters reserved, no details have been submitted as to the design and appearance of the proposed dwellings. This information would have been submitted at reserved matters stage under the matters of scale and appearance. In addition to details of the design and appearance of the dwellings, Officers would have expected details of land level changes to have been submitted at reserved matters stage, to enable the impacts of the scheme to be fully assessed at this stage.
- 5.28 However, as set out above, Officers do not consider that a scheme for four dwellings could be accommodated on site given the constraints of the site, namely the presence of protected trees covering much of the site.

Amenity of existing and future residents

VALP Policy: BE3

- 5.29 Policy BE3 of the VALP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of existing residents and achieve a satisfactory level of amenity for future residents.
- 5.30 Given this application is outline only, with all matters reserved, Officers cannot fully assess the impact of the development on amenity without details of layout, scale, appearance, and landscaping. However, regarding the impact on amenity of the existing dwellings, given the significant land level changes throughout the site in comparison to that of the land level surrounding it and the proximity of neighbouring dwellings, Officers anticipate that much of the site would only be able to accommodate single storey dwellings to ensure a satisfactory relationship with neighbouring properties. This would likely avoid significant, detrimental impacts to the residential amenities of neighbouring properties.
- 5.31 In the event of outline permission being granted, details of existing and proposed land levels would have been required at reserved matters stage to demonstrate any necessary changes in land levels, to enable the impact on trees and amenities of neighbouring occupiers to be fully assessed. However, as noted above, any extensive land level changes within the site, such to ensure that a satisfactory standard of amenity would be achieved for neighbouring occupiers, would likely result in significant detrimental impacts on the protected trees within the site. This is indicative of the inability of the site to satisfactorily accommodate the quantum of development proposed.
- 5.32 Turning to the amenity of future occupiers, as above, without the details of layout, scale,

appearance, and landscaping, Officers cannot fully assess the impact on amenity. Should this application be approved, at reserved matters stage, Officers would expect the appearance of the dwellings (i.e., the placement of windows etc.) to avoid overlooking, expect the layout to ensure sufficient private amenity space can be accommodated and expect the scale and landscaping of the scheme to avoid impacts to light levels and overshadowing to both future occupiers and existing neighbouring dwellings.

Ecology

VALP Policy: NE1

- 5.33 Policy NE1 of the VALP is reflective of the NPPF and the National Design Guide (at chapters N1 and N3) in requiring all development to deliver a net gain in biodiversity. Regard must be had as to how the proposed development contributes to the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains where possible and preventing any adverse effects of pollution, as required by the NPPF.
- 5.34 Policy NE1 goes to explain that when there is a reasonable likelihood of the presence of protected or priority species or their habitats, development will not be permitted until it has been demonstrated that the proposed development will not result in adverse impacts on these species or their habitats.
- 5.35 The application is supported by a Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) (dated July 2022).

Impact on protected species

- 5.36 Turning first to bats, the site was identified as 'negligible' for roosting bats; however, the site has moderate value for foraging and commuting habitats for bats therefore, the Council's Ecologist requested that the provided measures within the submitted report be performed prior to commencement of works. In terms of reptiles, the development should be carried out in accordance with the provided reptile impact avoidance measures. Had the application been approved, compliance with these measures would have been secured by condition. The submitted PEA report identified that the likelihood of bird species being present on site as 'moderate'; the Council's Ecologist requested that justification or further survey efforts be undertaken to understand the potential impacts to nesting birds on site. Finally, the PEA report sets out that the ecologist had been unable to identify if a badger sett is present on site due to dense scrub. The Council's Ecologist requested that this information be sought as surveys of this nature cannot be conditioned as part of any approval.
- 5.37 The concerns raised in relation to birds and badgers have subsequently been overcome by the submission of further surveys or justification. As such, had the application been recommended for approval, conditions would have been imposed to ensure that the protected species identified would not be harmed.
- 5.38 In terms of Great Crested Newts (GCN), the application site falls within the amber impact risk zone for GCN. There are three ponds within 500m of the site, with two GCN records

within 130m and 236m from the red line boundary. The GCN Officer acknowledged that there are partial barriers between the ponds and the site (as set out in the submitted PEA). However, there is still the possibility of GCN being present due to nearby GCN records and suitable habitats. It was recommended that Reasonable Avoidance Measures (RAMs)/Non-Licensed Method Statement (NLMS) should be submitted prior to determination.

- 5.39 This was submitted in support of the application on 10 February 2023. Subsequently, the GCN Officer was satisfied that the method statement would address the residual risk of impacting GCN, and this should be secured via condition. Had the application been recommended for approval, this condition would have been imposed.

On-site habitats

- 5.40 A lowland mixed deciduous woodland has been identified on-site. Originally, this woodland was classified within section 41 of the Natural Environment and Rural Communities (NERC) Act and was a UK Biodiversity Action Plan Priority Habitat. In accordance with the NPPF and policy NE1 of the VALP, development will not be permitted if it would result in damage or loss of a site of biodiversity value including priority habitats, except in exceptional circumstances. Following this, a woodland classification was undertaken and submitted in support of this application to fully determine the classification of the woodland. The Council's Ecologist concluded that the information submitted was unclear as to what the woodland on site should be classified as and requested further information in this regard.
- 5.41 Further surveys were performed with regard to the on-site woodland. The provided report gave clear evidence as to why the on-site woodland was not considered to be a priority woodland. As such, the Council's Ecologist had no further comments to make regarding this ecological aspect.
- 5.42 As aforementioned within this report, policy NE8 of the VALP requires developers to aspire to retain a minimum of a 25m natural buffer around woodlands for the benefit of wildlife, incorporating a dark corridor with no lighting. It is considered that there would be insufficient space within the site to provide any notable buffer zone around the woodland within the site and accommodate the full quantum of development applied for (up to four dwellings), thereby failing to ensure a harmonious relationship between the built and natural environment and have adequate regard to wildlife benefits. The proposal therefore fails to accord with policy NE8 of the VALP.

Biodiversity Net Gains

- 5.43 Biodiversity Net Gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. There is a transitional two-year implementation period with the mandatory requirement expected to come into place in November 2023. During the transition period, development proposals need to demonstrate measurable gains in biodiversity in accordance with the NPPF and policy NE1 of the VALP.
- 5.44 The Biodiversity Metric is a means of assessing changes in biodiversity value (losses or gains) brought about by development. Initially, no Biodiversity Metric was submitted in

support of this application; this was requested by the Council's Ecologist. A BNG report and Metric were subsequently submitted on 10 February 2023. The conclusions in the BNG report set out that action would need to be taken to secure a net gain and that, having explored the local options, will probably require off-setting, or more likely, the purchase of units from a registered source. The Council's Ecologist stated that until clarification of the on-site woodland habitat categorisation had been provided, along with a proposed habitat map, a full review of the BNG evidence could not be achieved as the conclusions of the woodland categorisation may affect the baseline units. At this point, the Council's Ecologist also set out that the mitigation hierarchy should be followed and that on-site net gains should be the first priority, then off-site net gains, and finally, the purchase of units from a third party.

- 5.45 Once the woodland categorisation had been concluded, an updated BNG report (minus the Metric) was supplied on 25 May 2023. This concluded that the proposed development would result in a net gain of 18.03% in area-based habitat units and a 613.99% net gain in hedgerow units; thus, demonstrating that a net gain above 10% is possible on the site.
- 5.46 Whilst this was acknowledged by the Council's Ecologist, the Council's Ecologist advised that the level of information supplied within the report was inadequate and inaccurate and requested that further clarification be sought to identify the inaccuracies between the initial BNG report (February 2023), the updated BNG report (May 2023), and the previously submitted BNG metric and habitat map. No updated Biodiversity Metric was supplied to support the conclusions within the new BNG report, and no proposed habitat map was provided to clearly show the habitats to be created/enhanced.
- 5.47 As such, based on the information submitted, the level of detail provided with regard to achieving a net gain in biodiversity is inadequate and inaccurate and does not show whether a net gain in biodiversity can be achieved on-site or whether the development would rely on off-site mitigation. If off-site mitigation is required, no means of securing this has been put forward.
- 5.48 Therefore, based on the information submitted, the application fails to demonstrate that a net gain in biodiversity can be satisfactorily achieved and secured. The application is therefore contrary to policy NE1 of the VALP, the Council's Biodiversity Net Gain SPD (2022), and the advice within the NPPF.

Biodiversity Enhancement Features

- 5.49 In line with recognised good practice and government policy on biodiversity and sustainability, all practical opportunities should be taken to harmonise the built development with the needs of wildlife. The submitted PEA report identified enhancement features which could be incorporated into the development. These included bat boxes, bird boxes, bee bricks, habitat piles, and hedgehog holes.
- 5.50 Given this application is for outline permission only with all matters reserved, in the event of outline permission being granted, a condition would have been imposed to secure the inclusion of the recommended enhancement features as part of a reserved matters

application for appearance or landscaping.

- 5.51 In addition, Aylesbury Vale is home to over half the national population of the rare native Black Poplar tree. There is potential within this development to enhance biodiversity features on-site by incorporating this species. This would have been secured, where possible, under the matter of landscaping as part of a reserved matters application.
- 5.52 Despite these specific points relating to the provision of biodiversity enhancement features, the application fails to demonstrate that a net gain in biodiversity can be satisfactorily achieved and secured. The application is therefore contrary to policy NE1 of the VALP, the Council's Biodiversity Net Gain SPD (2022), and the advice within the NPPF.

Flooding and drainage

VALP Policies: I4 and I5

- 5.53 Policy I4 of the VALP requires a site-specific Flood Risk Assessment (FRA) on sites of 1 hectare or more in size, or where there is evidence of flooding. Paragraph 167 of the NPPF requires new development to consider the risk of flooding to the site and elsewhere.
- 5.54 The site is located within Flood Zone 1 and is at low to very low risk of surface water flooding. The site is below the 1-hectare threshold for requiring a Flood Risk Assessment. Therefore, the proposed development would likely not increase flood risk elsewhere in accordance with policy I4 of the VALP and the NPPF. The Lead Local Flood Authority (LLFA) was consulted on the application and advised that subject to the imposition of a condition, the application would raise no concerns in relation to flooding. Had the application been recommended for approval, this condition would have been imposed.
- 5.55 Turning to policy I5 of the VALP, this states that the council will seek to improve water quality, ensure adequate water resources, promote sustainability in water use and ensure wastewater collection and treatment has sufficient capacity. Policy I5(b) sets out that development will only be permitted where adequate water resources exist or can be provided without detriment to existing uses. New homes should be built to not exceed the water consumption standard of 110 litres per person per day. Had the application been recommended for approval, compliance with policy I5(b) of the VALP would have been secured via condition.

Historic environment

VALP Policy: BE1

- 5.56 Policy BE1 of the VALP states that the historic environment, unique in its character, quality and diversity across the Vale is important and will be preserved or enhanced. All development, including new buildings, alterations, extensions, changes of use and demolitions, should seek to conserve heritage assets in a manner appropriate to their significance, including their setting, and seek enhancement wherever possible.
- 5.57 The application site falls within the setting of Tingewick Conservation Area which is located to the north-west of the application site. The north-west corner of the site directly abuts the boundary of the Conservation Area. The Heritage Officer was consulted on the

application and is satisfied that subject to acceptable layout, appearance, and landscaping details, the site could accommodate development which would have a neutral impact on the significance of the Conservation Area. Assessment of the acceptability of the scheme with regards to impacts on the setting of the Conservation Area would be carried out at reserved matters stage. Whilst the comments of the Heritage Officer are noted, these relate specifically to the impact of the subsequent proposed built form to be accommodated within the site.

- 5.58 It is the view of Planning Officers that, having regard to the comments within the Tingewick Conservation Area document (2008) that note *“One is conscious of trees in the setting of the village particularly those on the ridges and in the vicinity of Tingewick House”* and *“The view is a pleasant one of a village in a valley bottom with meadowland, hedgerows and trees stretching above it to the far ridge”*, the removal of trees such to necessitate the proposed development would negatively impact upon the setting of Tingewick Conservation Area. The harm arising to the setting would be less than substantial in the context of paragraph 202 of the NPPF.
- 5.59 Great weight has been given to the designated heritage asset’s conservation. In this instance, it is considered that due to the proposed removal of the existing trees, less than substantial harm would be caused to the significance of the designated heritage asset, in NPPF terms, and as such the proposal fails to accord with guidance contained within the NPPF and policy BE1 of the Vale of Aylesbury Local Plan.
- 5.60 Whilst the scheme would provide for up to four dwellings, the public benefits of the scheme would be limited to, the provision of up to four dwellings making a limited contribution towards the Council’s 5year housing land supply, associated job creation during construction, and economic benefits arising from the spending from future occupiers. As such, the public benefits are not considered to outweigh the harm to the designated heritage asset.

Building sustainability

VALP Policy: C3

- 5.61 Policy C3 of the VALP states that all development schemes should look to achieve greater efficiency in the use of natural resources. In the event of outline planning permission being granted, compliance with this policy would have been secured by condition.

Infrastructure and Developer Contributions

VALP Policies: I1 and I2

- 5.62 Policy I1 of the VALP requires new housing developments of more than 10 units or which have a combined gross floorspace of more than 1,000 square metres (gross internal area) to meet the ANGSt (accessible natural green space standards) in Appendix C to meet the additional demand arising from new residential development. As layout, scale, and appearance are matters to be reserved, it is not possible for Officers to determine the floorspace of the proposed dwellings at this stage. In the event of outline planning permission being granted, a condition would have been imposed to limit the quantum of

floorspace to less than 1000sq m, such to ensure compliance with Policy I1 of the VALP.

- 5.63 Policy I2 of the VALP requires the LPA to secure adequate provision of sports and recreation facilities on schemes of more than 10 units or which have a combined gross floorspace of more than 1,000 square metres (gross internal area). As layout, scale, and appearance are matters to be reserved, it is not possible for Officers to determine the floorspace of the proposed dwellings at this stage. In the event of planning permission being granted, a condition would have been imposed to limit the quantum of floorspace to less than 1000sq m, such to ensure compliance with Policy I2 of the VALP.

6.0 Weighing and balancing of issues / Overall Assessment

- 6.1 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.
- 6.2 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
- 6.3 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development which for decision taking 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, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.4 Whilst the scheme would provide for up to four dwellings, the benefits of the scheme would be limited to, the provision of up to four dwellings making a limited contribution towards the Council's 5year housing land supply, and the economic benefits associated with job creation during construction and arising from the spending from future occupiers. However, the harms arising from the scheme include the significant detrimental impact on trees, harm to the setting of the Conservation Area (a designated heritage asset), and failure to secure biodiversity net gain and affordable housing in accordance with local and national policies and guidance. As such, the benefits of the scheme are not considered to outweigh the harm arising from the proposal.

6.5 As set out above, it is considered that the proposed development would not accord with the relevant development plan policies. There are no material considerations to indicate a decision other than in line with the development plan. As such, the application is recommended for refusal.

Human Rights Act 1998

6.6 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

Equalities Act 2010

6.7 Local Planning Authorities, when making decisions, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent.

7.0 Working with the applicant / agent

7.1 In accordance with paragraph 38 of the NPPF (2023) 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.

7.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applicants/agents of any issues that may arise in the processing of their application.

7.3 In this instance, the applicant did not use the pre-application process, the proposal did not accord with the development plan, and no material considerations were apparent to outweigh these matters of principle. It was considered that the objections to the proposal could not be overcome through minor amendments. As such, the application is recommended for refusal.

8.0 Recommendation

8.1 It is recommended that the application be **REFUSED** for the following reasons:

1. The application site hosts a number of trees which are formally protected by virtue of a Tree Protection Order (TPO). The trees within the site form an important settlement characteristic of the site and wider area. Whilst permission is sought in outline only, Officers are not satisfied that up to four dwellings can be satisfactorily accommodated within the site without significant harm to and loss of a number of protected trees. The removal of protected trees within the site, such to accommodate the quantum of development proposed, would fail to respect the physical characteristics of the site and would harm an important settlement characteristic of the site and wider area to the detriment of the character of the area and the setting of Tingewick Conservation Area. The

harm to the significance of the designated heritage asset would be less than substantial and would not be outweighed by public benefits. In addition, given the extent of the protected trees within the site, Officers are not satisfied that a 25metre buffer between the protected trees and new development within the site, as required by policy NE8 of the Vale of Aylesbury Local Plan, could be accommodated, given the quantum of development proposed for up to four dwellings. The proposal is therefore contrary to policies D3, BE1, BE2, and NE8 of the Vale of Aylesbury Local Plan (September 2021), the National Design Guide (2021) at chapters C1, C2, I1, and N1, and the National Planning Policy Framework (2023) at Sections 12, 15, and 16.

2. Inadequate and inaccurate evidence relating to the provision of a net gain in biodiversity has been submitted as part of the application. The information submitted does not show whether a net gain in biodiversity can be achieved on-site, or whether the development would rely on off-site mitigation. If off-site mitigation is required, no means of securing this has been put forward. The application therefore fails to demonstrate that a net gain in biodiversity can be achieved and appropriately secured. The proposal is therefore contrary to the requirements of policy NE1 of the Vale of Aylesbury Local Plan (September 2021), the Council's BNG Supplementary Planning Document (July 2022), the National Design Guide (2021) at chapters N1 and N3, and the National Planning Policy Framework (2023) at Section 15.

3. The site area exceeds 0.3hectares, therefore triggering the provision of a minimum of 25% affordable housing in accordance with policy H1 of the Vale of Aylesbury Local Plan. Within the application submission, no affordable housing has been proposed nor means of securing affordable housing put forward. As such, based on the information submitted, the application fails to make provision for, or adequately secure, the provision of affordable housing, contrary to policy H1 of the Vale of Aylesbury Local Plan (September 2021), and the National Planning Policy Framework (2023) at Section 5.

Appendix A: Consultation Responses and Representations

Appendix B: Site Location Plan

APPENDIX A: Consultation Responses and Representations

Councillor Comments

None received.

Parish/Town Council Comments

TPC objects to the application because of the amount of traffic; the junction where Buckingham Street and Church Lane meet already struggles with the amount of traffic now, four more dwellings would increase the amount of traffic and the access roads are insufficient.

Consultation Responses (Summarise)

Heritage:

Dated 26 August 2022: Further information is required in the form of a heritage statement.

Dated 31 August 2023: The application does not raise an objection on heritage grounds as it is considered to have a neutral impact to the setting of the conservation area.

LLFA:

Dated 6 September 2022: Objects to the proposed development due to insufficient information regarding the proposed surface water drainage scheme.

Dated 25 July 2023: No objection to the proposed subject to condition.

Ecology:

Dated 6 September 2022: Holding Objection – further information is required regarding biodiversity net gain, further badger information, and nesting birds. Development will result in potential loss of priority habitat; justification is required.

Dated 17 March 2023: Holding Objection – further information is required. Clarification on woodland habitat classification and biodiversity net gain evidence.

Dated 2 August 2023: Holding Objection – further information is required. Biodiversity net gain evidence and woodland/hedgerow buffer.

Environmental Health: No objection subject to conditions and informatives regarding noise and dust control

Highways: Satisfied that proposed access track is of sufficient width to accommodate vehicle movements associated with proposed development. No objection subject to conditions.

Newt Officer:

Dated 30 September 2022: Holding Objection – further information required. Provision of precautionary working statement in the form of Reasonable Avoidance Measures (RAMs)

/ Non-Licensed Method Statement (NLMS).

Dated 16 March 2023: No objection subject to condition secure the measures as set out in method statement.

Anglian Water: No records of any events of capacity related flooding within the area. No reason why Anglian Water should anticipate that the connection of the proposed development to the public network would cause any capacity related issues.

Tree Officer:

Dated 22 Sept 2022: Objection - significant impacts to trees. The current proposal appears contrary to policy NE8 of VALP. The indicative layout would require significant tree loss and these trees provide wider benefits and ecosystem services per NPPF para 174. It is not clear from the proposed layout how the site would be able to accommodate commensurate new planting, and this is further highlighted by the supporting AIA stating that new planting can only offer "some mitigation". Advise that prior to any planning application, the proposal should be revised to enable a more positive relationship with trees.

Dated 1 June 2023: Considers the trees to be a single woodland. Any development on site would undoubtedly require considerable levels of tree loss. Anticipated that by allowing the principle of development to be established on site, there will degradation of the existing woodland and there would be insufficient space for this to be compensated for. On the 1st June 2023, Buckinghamshire Council have afforded the woodland statutory protection through provision of a Tree Preservation Order (TPO). Reasons for making the TPO include concerns over the degradation of woodland and the impact on both visual amenity and character of the area, which come as a direct result of the removals which would be required. Insufficient space to provide for the required buffer around the woodland. Any granting of outline permission would be unlikely to be satisfied at reserved matters stage, due to fundamental inconsistencies with Policy NE8 and the NPPF as stated above.

Representations (summarised)

One comment has been received supporting the proposal:

- *Supports progress of the village*
- *Derelict and barren land is an eyesore*
- *Cannot see a problem*
- *Looking forward to some in keeping buildings*

Seven comments have been received objecting to the proposal:

- *Overlooking and lack of privacy*
- *Parking in street is already problematic*
- *Condition of road surface is poor and will degrade further*

- *Draws attention to ref. 01/01590/AOP which stated that the height of any development should be restricted to single storey to achieve a satisfactory relationship with neighbouring dwellings*
- *Impacts on health due to stress and worry*
- *Concerned about the height of the development*
- *Question whether developers will be respectful of neighbours*
- *Access for construction vehicles would be difficult*
- *Increase in traffic*
- *Concerns with drainage – Buckingham Street is prone to flooding*
- *Strain on healthcare and schools*
- *Fencing needs to be erected to ensure privacy*

APPENDIX B: Site Location Plan



Do not scale – this map is indicative only

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