

Planning Committee

Update on Decisions subject to various requirements in the light of National Planning Policy Framework

24 May 2012

Report of the Head of Public Protection And Development Management

PURPOSE OF REPORT

This report enables Members to re-consider past resolutions to approve planning applications, subject to various requirements, following the introduction of the National Planning Policy Framework and the cancellation of most of the PPSs and PPG s which previously were considered in the application's determination.

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Consider the recommendations contained within this report with regards to each individual application.

Details

Background

On 27 March 2012 the Government published the National Planning Policy Framework (NPPF), a 47 page document which replaces most of the previous Planning Policy Guidance and Planning Policy Statements (PPGs and PPSs) which previously supplied much of the central government guidance on planning matters and which were material considerations in the determination of planning applications. The NPPF is now a material consideration (see para 196 of the NPPF)

The NPPF largely carries forward existing planning policies and protections in a significantly more streamlined and accessible form. It introduces the presumption in favour of sustainable development and makes adjustments to some specific policies. I attach as Annex 1 a list of the principal changes

(extracted from a document supplied by The Planning Inspectorate to their inspectors)

Members should each have received their own copy of the NPPF and they have all been invited to attend a training session on the document on 21st May 2012.

In considering planning applications, the local planning authority is obliged to have regard to the development plan and to any other material considerations. This duty continues until the decision notice is issued. As such, Members need to have regard to the NPPF and whether it affects earlier decisions where the decision notice has not yet been issued.

The Applications

The report below is structured to deal with each application in turn. In each case there is a summary of the previous consideration and PPGs/PPSs considered and then a brief review of the new NPPF considerations where these are different. In some cases the opportunity is also taken to update Members on other matters.

01/00662/OUT Proposed new research buildings (long term phase of site development) Begbroke Business and Science Park Sandy Lane Yarnton Kidlington

In February 2002 The Council's South Area Planning Committee resolved to grant planning permission subject to departure procedures (completed) and a legal agreement. This then got tied up in the difficulty of providing a new road access to the site. As Members will know the new roadway to the A44 has now been opened

This Committee last reconsidered its position with regards to this development at the meeting held on 14 April 2011, when the willingness to grant a consent was re-affirmed.

The site lies within the designated Green Belt and therefore the principal consideration had been an assessment against PPG2. PPS4 was also particularly relevant for the re-development of this existing commercial site. Both of these documents have been replaced by the NPPF, but the thrust of these policy directions remains intact insofar as there remains a strong presumption against inappropriate development in the Green Belt and the sustainable location of major employment uses remains a fundamental concern. In your officers opinion the balancing exercise that previously resulted in the decision to approve remains the same and need not be unduly influenced by the new policy context. It is therefore **recommended** that the Committee re-affirm its decision to approve the proposal, as previously and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's.

10/00640/F Permanent change of use of 253 existing military dwellings for residential class C3- Application No: 10/00640/F

Former USAF Housing South Of Camp Road Upper Heyford

The application sought to retain dwellings, mainly bungalows, previously envisaged to be demolished under the permission for a new settlement at Heyford granted at appeal in 2010 (ref 08/00716/F). On 4th November 2010 the Committee resolved that application 10/00640/F be approved subject to: (i) conditions and (ii) the applicant entering into a section 106 agreement with the District and County Council as outlined in the officer's report and written update.

However. It was overtaken by a subsequent application (ref 10/01642/OUT) that revised the approved masterplan for the settlement, still retaining the bungalows, that was approved in principle by Committee in March 2011, again subject to an s106 agreement. This was sealed and the permission issued in December 2011. Officers have subsequently requested the withdrawal of 10/00640/F but it remains for now in abeyance.

The main issues in determining the application were: The Principle of Development and Compliance with the Development Plan, Impact on the Conservation Area, Access and Highways, Affordable Housing and Section 106 Agreement.

In terms of policy, the greatest weight was given to Oxfordshire Structure Plan 2016 (OCS) and Saved Policy H2-Upper Heyford and this still remains the case. There were a number of relevant local policies, the Revised Comprehensive Development Brief for the site, and the Conservation Area Appraisal also considered. In terms of National Planning Guidance reference was made to: PPS1-Delivering Sustainable Development, PPS3-Housing, PPS5-Planning for the Historic Environment and PPS7-Sustainable Development in Rural Areas. The NPPF has also replaced a number of other documents including Government Circular 05/2005-Planning Obligations.

As noted in the introductory paragraphs the NPPF makes a substantial change to the form of national planning policy, it largely "carries forward existing policies and protections in a significantly more streamlined and accessible form". It also introduces "the presumption in favour of sustainable development". This is an interesting concept for Heyford which is recognised as an unsustainable location in the OCS but where a new settlement was seen as an opportunity to achieve an appropriate balance between environmental improvements to a rural part of Oxfordshire, conservation of the heritage interest from the Cold War, and reuse of some existing buildings and previously developed land. Sustainable development requires economic, social and environmental gains to be made jointly and simultaneously which is clearly the case at Heyford.

The NPPF still requires applications to be determined in accord with the development plan and approved where the plan is absent, silent or not up to date unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or specific policies in the NPPF indicate development should be restricted.. In this case the proposal accorded with policy H2 of the OCS. It also involves the significant re-use of previously developed land

It also accords with the NPPF in the following policy areas:

- Housing: it provides choice in housing; creates an inclusive and mixed community; re-uses existing stock; is supported by the community; provides for affordable housing.
- Healthy Communities: it is part of a shared vision for Heyford; strengthens the existing community; builds on existing assets; retains local green space
- Historic Environment: it sustains and enhances heritage assets and puts them to a viable use in proportion to the importance of the assets; it does not cause harm or loss of heritage assets; policy departure is permitted where enabling development secures the conservation of heritage assets (although in this case there is not considered to be a conflict with the main policy)
- Decision Making-Obligations should be used where conditions cannot; they and conditions should only be used where necessary, relevant, precise and reasonable. It is still appropriate to seek a Section 106 agreement to secure the affordable housing and other contributions previously agreed. It was negotiations on this that delayed the issue of the planning permission and which have been overcome on the new masterplan permission.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

**10/01021/F Variation of condition 7 of 07/02478/F. To permit the project to be constructed in two phases.
The Othmoor Lodge Horton Hill Horton Cum Studley**

In October 2010 the Committee resolved to approve this variation of a condition relating to the construction of 4 houses, allowing them to be built in two phases and relating to the necessary construction of the adjacent public house/hotel extensions which they were to enable, subject to the applicants entering into a legal agreement to control this phasing and the interim appearance of the hotel development.

Whilst this application itself was not influenced by national planning guidance the 07 permission for 4 houses and the 2006 outline planning permission for the hotel extension and the houses (06/01927/OUT) had taken into account

the advice contained in PPG2 relating to Green Belts. The advice now contained in Section 9 of the NPPF follows the same general presumption against inappropriate development, and that such development should only be approved when very special circumstances have been demonstrated that outweigh that normal presumption of refusal. In your officers opinion this balancing exercise is unaltered by this change in policy context and therefore it is **recommended** that the Committee re-affirm its decision to approve the proposal, as previously and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's.

10/01780/Hybrid Development of Exemplar phase of NW Bicester Eco Town to secure full planning permission for 394 residential units and an energy centre (up to 400 square metres), means of access, car parking, landscape, amenity space and service infrastructure and outline permission for a nursery of up to 350 square metres (use class D2), a community centre of up to 350 square metres (sui generis), 3 retail units of up to 770 square metres (including but not exclusively a convenience store, a post office and a pharmacy (use class A1)), an Eco-Business Centre of up to 1,800 square metres (use class B1), office accommodation of up to 1,100 square metres (use class B1), an Eco-Pub of up to 190 square metres (use class A4), and a primary school site measuring up to 1.34 hectares with access and layout to be determined.

In August 2011 the Committee resolved to approve this application subject to the completion of legal agreements. In March 2012 an update on progress on the application was reported to the Committee.

Since March the NPPF has been published, and although most PPS's and PPG's were withdrawn the Eco Town supplement to PPS 1 remains. This PPS identifies NW Bicester as the location for new development and sets the high standards such developments should achieve. These considerations have not changed. The impact of the withdrawal of other planning statements is considered further below.

An addendum to the comments of the Head of Strategic Planning and the Economy has also been received and can be viewed on line with other representations.

Other policy documents were considered in the report including PPS1 Sustainable Development, PPS3 Housing, PPS25 Flood Risk and PPG 13 Transport.

The NPPF now includes a presumption in favour of sustainable development, and seeks high quality design, matters previously covered by PPS1. The NPPF now also includes the requirement to provide for a five year plus 5 or 20%, housing land supply which was previously covered by PPS3. Requirements re minimum densities also in the PPS are not carried over to the NPPF, although it requires efficient use of land. The NPPF requires

housing needs to be met. Since the report in August the Council's AMR has been updated and shows that the Council no longer has a five year housing land supply. In such circumstances the NPPF gives additional weight to the presumption in favour of sustainable development. Advice on flood risk is also included in the NPPF and the advice note accompanying the PPS remains. The NPPF covers the promotion of sustainable transport and identifies the need for the transport system to be balanced in favour of sustainable development. This is consistent with the approach of the Eco Town PPS and the planning application.

Reference was made to other PPS's within the original committee report in the context of the Eco Town PPS standards but as the Eco Town's PPS remains there is no need to further consider these in this report.

The development at NW Bicester exceeds the sustainability standards generally provided in new developments. The Eco Town PPS remains a relevant consideration and the NPPF replaces guidance in the PPS that have been withdrawn, adding weight to the requirements for sustainable development.

It is therefore **recommended** that the Committee re-affirm its decision to approve the proposal, as previously, and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's.

11/00524/F – Cherwell Valley Services, wind turbine

At the meeting of this Committee held on 6 October 2011 it was resolved to approve this application subject to the resolution of issues concerning radar and aviation safety

- Application originally considered against the following PPSs and PPG;
 - PPS1, Delivering Sustainable Development
 - Planning and Climate Change – Supplement to PPS1
 - PPS7, Sustainable Development in Rural Areas
 - PPS9, Biodiversity and Geological Conservation
 - PPS5, Planning and the Historic Environment
 - PPS22, Renewable Energy and its companion guide
 - PPS23, Planning and Pollution Control
 - PPG24, Planning and Noise
 - PPS25, Development and Flood Risk
- With the exception of the Companion Guide to PPS22 all of these documents have been replaced by the National Planning Policy Framework (NPPF). Set out below are the key elements of the NPPF that are relevant to the consideration of this application proposal.
 - At the heart of the NPPF is the presumption in favour of sustainable development and this should be reflected in decision-taking, thus reflecting the principles of PPS1.

- Chapter 10, paragraphs 97 and 98 deal specifically with renewable energy with a general principle of encouraging renewable energy generation. When determining applications, LPAs should not require applicants to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application if its impacts are (or can be made) acceptable.
- Paragraph 75 seeks the protection and enhancement of public rights of way and access; it is not considered that the development conflicts with this.
- The site lies within flood zone 3 and Paragraph 100 seeks to avoid inappropriate development within areas at risk of flooding but allows for development where it can be made safe without increasing the risk of flooding elsewhere. The application was assessed in relation to flood risk and compensation measures are proposed. As such the development complies with the NPPF in this respect.
- The NPPF states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and AONBs which have the highest status of protection in relation to landscape and scenic beauty. It says very little in relation to the protection of unprotected landscapes simply recognising the intrinsic character and beauty of the countryside and the planning system needing to contribute to and enhance the natural and local environment. Given the lack of national designations at this site there is considered to be insufficient justification in this regard to reach a different conclusion in relation to the proposals impact on the landscape and countryside character to that already reached in the original assessment of the proposal.
- The NPPF sets out that LPAs should aim to conserve and enhance biodiversity and should refuse planning permission where significant harm resulting from the development cannot be avoided. The application has been assessed for its impact on protected species and it was not considered that significant effects would occur that could not be mitigated against.
- Paragraph 123 states that decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. The application has previously been considered in relation to noise and it was not considered that significant noise effects would occur.
- Paragraph 125 deals with light pollution and it is considered that conditions can be used to ensure light pollution does not occur and that residential amenities are protected in this regard.
- Chapter 12 of the NPPF deals with the protection and enhancement of heritage assets and their setting. It is not considered that the guidance in relation to heritage protection differs sufficiently from the replaced PPS5 so as to warrant a re-examination of the impacts of the proposal on heritage

assets.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

11/01369/F Construction of a three storey building, single storey building, link to existing building, demolition of existing bungalow and alterations to car park and landscape works

Oxford and Cherwell Valley College (south site), Broughton Road, Banbury

Members of the Planning Committee resolved to approve the above application on 5 January 2012 subject to: (i) a legal agreement and (ii) appropriate conditions.

The key issues in determining the application were: principle, design/appearance/scale, visual impact/setting of conservation area, transport impact/highway safety, drainage, residential amenity, ecology, trees and landscaping.

Together with the South East Plan and the adopted Cherwell local Plan which remain in place, the application was considered against Planning Policy Statements 1: Delivering Sustainable Development, 5: Planning for the Historic Environment, 9: Biodiversity and Geological Conservation and Planning Policy Guidance Note 13: Transport which have been replaced by the National Planning Policy Framework (NPPF).

The application was recommended for approval and the officer recommendation is not affected by the NPPF for the reasons set out below:

- Principle: the application seeks to improve an existing educational facility within a sustainable location just beyond the town centre, which accords with the presumption in favour of sustainable development set out within the NPPF, together with advice on encouraging the effective reuse of land within the NPPF's core principles.
- Design/Appearance/Scale: The design of the college buildings is innovative and will help to raise the standard of design in the area and takes opportunities available for improving quality and character in accordance with advice on requiring good design within the NPPF.
- Setting of Conservation Area: the proposed development would not cause harm to the setting of the Banbury Conservation Area and as such would sustain this heritage asset in accordance with guidance on conserving and enhancing the historic environment contained within the NPPF.
- Transport Impact/Highway Safety: in accordance with the core

principles of the NPPF, the development is within a sustainable location, thus promoting, walking, cycling and public transport. Furthermore safe and suitable access to the site can be achieved for all in accordance with guidance on promoting sustainable transport within the NPPF.

- Flood Risk/Drainage: The development would avoid increased vulnerability to flooding and would not result in increasing flood risk elsewhere in accordance with guidance on meeting the challenge of climate change and flooding contained within the NPPF.
- Residential Amenity: In accordance with the core principles within the NPPF, the proposed development would achieve good standards of amenity for all existing neighbouring occupants.
- Natural Environment: The proposal would not cause significant harm to the existing trees on the site or biodiversity and includes measures to protect and enhance habitats important to nature conservation in accordance with guidance on conserving and enhancing the natural environment contained within the NPPF.

Planning Condition and Obligations: It is still appropriate to impose conditions in relation to the application, and to seek a Section 106 Agreement securing public art. In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

11/01484/F Construction of 3 storey office block and associated car park and vehicular access

Phase 3, Oxford Spires Business Park, Kidlington

On 5 January 2012 the Committee resolved to approve this proposal subject to Environment Agency comments and the receipt of a Unilateral Undertaking. This application was considered under the following Government guidance: PPS1; PPS4; PPS9; PPG13; PPS23; and PPS25. The principle of the development, which is in a very sustainable location on the edge of Kidlington, is not compromised by the NPPF which supersedes all of the documents listed above. Paragraph 19 of the NPPF reads as follows:

“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

The other key issues in this case related to design, highway safety issues, potential flooding and the impact on a number of TPO'd trees. There is nothing in the new guidance which would lead the HPP&DM to arrive at a

different conclusion to that reached previously in recommending this application for approval. Of the two outstanding issues: the Environment Agency was satisfied with the findings of the applicant's flood risk assessment; and the S106 agreement is close to being finalised.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

11/01732/F Three storey structure containing a service area, workshop and car parking area

Oxford Office Village, Langford Lane, Kidlington

This application was considered under the following Government guidance: PPS1; PPS4; PPS9; PPG13; and PPS23. The principle of the development, which is in a very sustainable location on the edge of Kidlington, is not compromised by the NPPF, which supersedes all of the documents listed above. Paragraph 19 of the NPPF reads as follows:

“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

The other key issues in this case related to design and highway safety issues. There is nothing in the new guidance which would lead the HPP&DM to arrive at a different conclusion to that reached previously in recommending this application for approval. The only outstanding issue related to the signing of a unilateral undertaking, this situation has yet to be resolved.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

11/01870/F Demolition of existing units. Construction of new retail units (use class A1), restaurants and cafes (use class A3), associated access, servicing and landscape works.

Banbury Gateway, Acorn Way, Banbury

Members of the Planning Committee resolved to approve the above application on 22 March 2012 subject to: (i) a legal agreement, (ii)

appropriate conditions and (iii) departure procedures. Delegated authority was given to the Head of Public Protection and Development Management, in consultation with the Chairman, to negotiate the legal agreement and conditions.

The key issues in determining the application were: The principle of the development, which was assessed against loss of employment land and the change of use of the land to retail, sequential assessment and retail impact, transport impact, landscape impact/design/layout, public footpath impact, sustainability, public safety, flood risk/drainage, contaminated land, air quality, noise, biodiversity/ecology, trees and archaeology.

Together with the South East Plan and the adopted Cherwell local Plan which remain in place, the application was considered against Planning Policy Statements 1: Delivering Sustainable Development, 4: Planning for Sustainable Economic Growth, 9: Biodiversity and Geological Conservation, 23: Planning and Pollution Control and 25: Development and Flood Risk and Planning Policy Guidance Notes 13: Transport and 24: Planning and Noise which have been replaced by the National Planning Policy Framework (NPPF).

Reflecting on the key issues previously assessed, Members are advised that the NPPF does not significantly affect their resolution to approve the application for the following reasons:

Members considered that the development represents sustainable development and that it would not result in an unacceptable loss of existing employment land which accords with the key presumption throughout the NPPF and guidance within it on building a strong, competitive economy.

Members accepted the retail sequential and impact tests that were carried out in association with the development and did not consider that it would have an impact upon existing and planned town centre investment and would encourage linked trips to the centre via the propped shuttle bus. Members therefore concluded that the development would not have an impact upon the vitality and viability of Banbury Town Centre which accords with guidance on ensuring the vitality of town centres contained within the NPPF.

Members concluded that the design and layout of the development is acceptable and that it would not have a significant landscape impact and as such would achieve high quality and inclusive design for all; which complies with guidance on requiring good design contained within the NPPF.

In relation to all other matters Members concluded that the application was acceptable as set out below:

- Transport Impact and Highway Safety: the application was supported by a Transport Assessment which covered opportunities for sustainable transport modes, demonstrated that safe and suitable access to the site can be achieved for all people and set out that

improvements could be undertaken within the highway network to limit the impacts of the development which is in accordance with guidance on promoting sustainable transport contained within the NPPF.

- Public Footpath: The development would achieve safe and accessible environments and would protect and enhance the existing public right of way. Whilst the existing right of way would be diverted, it would not impact upon public rights and furthermore a second permissive footpath is being offered in addition which accords with guidance on promoting healthy communities contained within the NPPF.
- Sustainable Construction: The development would secure reductions in greenhouse gas emissions and supports delivery of renewable and low carbon energy in accordance with guidance on meeting the challenge of climate change contained within the NPPF.
- Flood Risk/Drainage: The development would avoid increased vulnerability to flooding and would not result in increasing flood risk elsewhere in compliance with guidance on meeting the challenge of climate change and flooding within the NPPF.
- Land Contamination, Noise and Air Quality: The development site is suitable for the new use taking account of ground conditions given the mitigation and remediation proposed. Furthermore it would not give rise to unacceptable levels of noise and would mitigate against any increased impact upon air quality in accordance with guidance on conserving and enhancing the natural environment contained within the NPPF.
- Trees and Biodiversity: The development would not cause significant harm to the trees on the site or biodiversity and includes measures to protect and enhance habitats important to nature conservation in accordance with guidance on conserving and enhancing the natural environment contained within the NPPF.
- Archaeology: The development involves a watching brief and where necessary any recording required to ensure no harm or loss of any such heritage assets in accordance with guidance on conserving and enhancing the historic environment contained within the NPPF.

Planning Condition and Obligations: It is still appropriate to impose conditions in relation to the application, delegated authority for which has been given to HPPDM and it is still appropriate to seek a Section 106 Agreement to which the developer and both Cherwell District and Oxfordshire County Councils would be party.

Due to the fact that the proposed land use is contrary to allocations within the development plan and the development is for retail use in an out of town centre location, the application must be referred to the National Planning Casework Unit (NPCU) under the 2009 Consultation Direction (departure procedures). This has not been done to date as negotiations are ongoing in relation to the wording of the conditions and the detail of the Section 106 Agreement. Once assessed by the NPCU, the application will either be called-in or the decision will be left to Cherwell District Council.

In conclusion, it is considered that the NPPF does not have a significant

bearing on the decision made previously by the Committee and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

11/01907/F Erection of 40 residential dwellings etc
Yew Tree Farm, Station Rd, Launton

At the Committee meeting held on 23 March 2012 Members resolved to approve this application subject to a legal agreement concerning affordable housing and on-site/off-site infrastructure.

This application was considered under government guidance from a number of PPSs including 1, 3, 5, 7, 9, 23 and 25, and PPG13. It was accepted that as the site is outside the built up limits of the village, it would be contrary to policy in any event, though other relevant factors needed to be given some weight, not least the requirement for a five year housing land supply required by PPS3. This is still a feature of the NPPF where it is stated under para 47 that "local planning authorities should....identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5%...". Para. 49 is of particular relevance in the Launton context as this is a category 1 more sustainable village. It states that "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

Para. 7 reveals that there is a presumption in favour of sustainable development; economic, social and environmental. Economically this site is acceptable because it is the right type of development, in the right place, at the right time and includes infrastructure. Socially, it provides the supply of housing required to meet the needs of present and future generations which is high quality and accessible. Environmentally the development of this site will protect and enhance the natural, built and historic environment and improve biodiversity.

The NPPF continues to seek to conserve and enhance the natural environment under section 11. The site does not benefit from the highest status of protection given to designated areas such as National Parks, AONBs and the Green Belt highlighted by the NPPF so it is appropriate to continue to assess the sites loss to development in the same way as outlined in the previous committee report e.g. whether or not the site intrudes into the countryside or harmful to its rural setting. The NPPF also continues to seek to conserve and enhance the natural environment in terms of biodiversity seeking to minimise impact, provide net gain where possible and seek to halt its overall decline (para. 109). Protected species continue to be a material consideration and other domestic and European legislation remains

unaffected. It is noteworthy that para. 119. states that “the presumption in favour of sustainable development (para. 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”

With regard to the issues raised relating to the heritage assets of the setting of Yew Tree Farm and archaeological matters, para 128 of the NPPF requires appropriate levels of detail to make a proper assessment and this was delivered with the application submission in accordance with these requirements. It is noted from para. 131. the desirability of sustaining and enhancing heritage assets and putting them to viable uses and this has been achieved with the non-designated heritage assets of the barn conversions in the setting of New Tree Farm in recognition of their positive contribution.

Highway safety matters are largely addressed under section 4 which relates to promoting sustainable transport. Para 32. states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment (which this application was) to reduce the need for major transport infrastructure, ensure safe and suitable accesses to the site and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

With regard to matters of layout, scale and design, the NPPF has a section on requiring good design (section 7). “Good design is.....indivisible from good planning”. The proposal will function well and add to the overall quality of the area, establish a strong sense of place, be properly accommodated within the site supporting local facilities and transport networks, reflect the identity of local surroundings and materials, be safe and accessible and visually attractive with good architecture and appropriate landscaping in accordance with para. 58.

Finally, it is appropriate to continue to seek a Section 106 agreement on this application to secure the affordable housing and other heads of terms previously agreed. The NPPF continues to support planning obligations where they meet all the tests of being necessary in planning terms, directly related to the development and fairly and reasonably related to its scale (para 203 onwards). This continues to be the case here.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

Implications

Financial:	<p>There are no additional financial implications arising from this report</p> <p>Comments checked by Karen Muir, Corporate System Accountant 01295 221559</p>
Legal:	<p>The determination of applications has to include all material matters at the point of determination, which is adjudged to be at the date of issuing the consent. It is important that the Council considers such a fundamental change in policy context as the publishing of the NPPF and the cancellation of previous guidance</p> <p>Comments checked by Nigel Bell, Team Leader – Planning and Litigation, 01295 221687</p>
Risk Management:	<p>Failure to consider this changed policy context could leave the Council liable to judicial review of these decisions</p> <p>Comments checked by Nigel Bell, Team Leader – Planning and Litigation, 01295 221687</p>

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Significant changes to NPPF
Background Papers	
All papers attached to the planning applications listed	
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