

**Site Address:Whitelands Farm,
Chesterton, Bicester**

11/01840/F

Ward :Ambrosden and Chesterton District Councillor: Cllr A J Fulljames

Case Officer: Linda Griffiths Recommendation: Approve

Applicant: Countryside Properties (Bicester) Ltd

Application Description: Conversion of existing barns to form 7 no. dwellings and construction of 4 No. dwellings on the footprint of the 3 existing hay barns to be removed. Associated access, car parking, landscape and boundary treatment works and demolition of minor ancillary structures and extensions

Committee Referral: Major

1. Background to this Report

- 1.1 At the planning committee meeting on the 31 January13 this application was considered and it was resolved to approve the application subject to the completion for a legal agreement. Following the resolution to grant planning permission the Applicant's have raised concerns with regard to the condition requiring the dwellings to meet Code for Sustainable Homes level 4. This further report addresses this issue.
- 1.2 The previous report is attached which sets out the full range of considerations with regard to the application. This report considers solely the issues associated with the condition it was resolved to apply to the development relating to the Code for Sustainable Homes.

2. Policy

- 2.1 South East Plan policy CC4 sets out the expectation that new development, redevelopment and refurbishment will adopt sustainable construction standards and techniques.

The proposed submission draft Local Plan policy ESD3 which states all new homes will be expected to meet Code Level of the Code for Sustainable Homes with immediate effect, unless exceeded by the standards set for NW Bicester Eco Town.

The NPPF advises '*Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.*'

The NPPF goes on to advise local authorities to support a move to a low carbon future and plan for new development in ways that reduce greenhouse gas emissions and when setting local requirements to do so in a way that is consistent with the Government's zero carbon buildings policy and adopt nationally prescribed standards.

3. Appraisal

- 3.1 Members will recall that at the last meeting they considered an application relating to

the conversion of the agricultural buildings at Whitelands Farm to 7 number residential properties together with the erection of 4 new dwellings on the site of the existing more modern pole barns which are to be demolished. Members resolved to approve the application subject to the applicants entering into a Section 106 Agreement and the imposition of a number of conditions. (See attached report) Two additional conditions were added verbally and agreed at committee relating to the protection of the existing public right of way and that the properties be constructed to Code Level 4.

- 3.2 The applicants have since requested that Condition 28 requiring that the dwellings be constructed to Code Level 4 be removed. The application has therefore been returned to Members for consideration as the permission has not yet been issued as the Legal Agreement has not yet been signed. The imposition of the condition relating to Code Level 4 was recommended in accordance with Policy CC4 of the South East Plan and Policy ESD3 of the proposed submission draft Cherwell Local Plan.
- 3.3 The applicants have formally written requesting that the condition be removed and have argued that the Code Level 4 requirements will have a significant effect upon the costs of constructing the proposed dwellings on this site, most particularly with regard to the converted barns, and that the additional costs of complying with code Level 4 would have an affect on the viability of the development.
- 3.4 The applicants have further argued that the normal expected cost difference between a Code Level 3 dwelling and Code Level 4 is greater in the case of this particular development because the designs are bespoke, they are not standard units and that extensive works are required to convert the barns which are in a poor state of repair, and that planning and design constraints on this site mean that measures that could normally be used to achieve Code level 4 would be much more expensive to introduce or may not be possible. The applicants also state that they believe that it will be difficult and/or costly to achieve anything near Code Level 4 requirements on the converted barns. These are merely statements however and no justification or evidence has been submitted with this letter to substantiate these claims.
- 3.5 Members will recall that viability was an issue with the proposal and that it was considered at some length during the consideration of the application and viability assessments were submitted by the applicant and assessed independently on behalf of the District Council. The outcome of those assessments was that the District Council accepted in respect of this particular development proposal that viability was a matter for consideration. Consequently the District Council accepted that the scheme was not sufficiently viable to make a contribution towards affordable housing. The explanatory text to policy ESD3 of the Draft Submission Cherwell Local Plan that the expectations in this policy will be applied flexibly and may not be imposed if a particular scheme may be proven by the developer to be financially unviable should it be required.
- 3.6 Having regard to the above therefore, as the construction of the development to Code Level 4 will have additional cost implications and therefore have an affect on the delivery of the scheme in terms of its viability, it is acknowledged that in this particular instance, the condition requiring the development to be constructed to Code Level 4 should not be imposed.

5. Engagement

- 5.1 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.19 With the exception of the issue of code levels set out in this report all other matters with regard to the application are as set out in the attached report. It is therefore recommended that Members accept the omission of the condition requiring the compliance with Code Level 4.

6. Recommendation

Approval,

In accordance with the recommendation as set out in the attached report, subject to the applicants entering into a legal agreement and in accordance with the attached conditions.

1. The development to which this permission relates shall begin not later than the expiration of three years beginning with the date of this permission.

Reason – To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions the application shall be carried out strictly in accordance with the following plans and documents:

Application Forms
Design and Access Statement
Plans and drawings accompanying the application (plan Nos. to be inserted)

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government Guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved, samples of the clay tiles and natural slates and timber boarding to be used in the construction of the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. Therefore the development shall be carried out in accordance with the samples so approved.

Reason – to ensure the satisfactory appearance of the completed development and to comply with the Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, a stone sample panel (minimum 1m² size) shall be constructed on site in natural limestone to match the stonework on the existing buildings, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan

2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, a brick sample panel to demonstrate the brick type, colour, texture, face bond and pointing (minimum 1m² in size) shall be constructed on site, which shall be inspected and approved in writing by the Local Planning Authority. Therefore, the external walls of the development shall be constructed in strict accordance with the approved sample panel.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

6. That the existing natural stone and bricks on site shall not be disposed of or removed from the site, but shall be conserved and reused in the construction of the new development.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

7. That any remedial stonework and brickwork necessary for the repair or making good of the existing walls of the barns and outbuildings shall be carried out in natural stone and bricks of the same type, texture, colour and appearance as the stone and bricks on the existing buildings and shall be laid, dressed, coursed and pointed to match that of the existing buildings.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

8. Prior to the commencement of the development, full details of all doors and windows hereby approved, at a scale of 1:20, including cross sections, cill, lintel and recess detail and colour shall be submitted to and approved in writing by the Local Planning authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

9. That prior to the commencement of development colouring of the external lime render shall be in accordance with a colour scheme to be submitted to and approved in writing by the Local Planning Authority, and shall be carried out before the buildings are first occupied and the colouring thereafter maintained in accordance with the approved scheme.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009,

Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels in relation to the existing ground levels on the site for the proposed conversions and new dwellings shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished levels plan.

Reason – To ensure that the finished development does not detract from the historical integrity of the existing buildings and to ensure that the development is in scale and harmony with its neighbours and surroundings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

11. SC3.0 That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

12. SC3.1 That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

13. That prior to the first occupation of the development hereby approved, a landscape management plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed

planting for all landscape areas, other than for privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscape management plan shall be carried out in accordance with the approved details.

Reason – In the interests of the visual amenities of the area, and to ensure the creation of a pleasant environment for the development and to comply with policy C4 of the South East Plan, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

14. That prior to the commencement of any development on the site, notwithstanding the details submitted, an Arboricultural Method Statement (AMS), undertaken in accordance with BS5837 shall be submitted and approved in writing by the Local Planning Authority. All works shall then be undertaken in accordance with the agreed document.

Reason – To ensure that no proposed operations impair the health of any retained trees in the interests of the visual amenities of the area, and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

15. That prior to the commencement of any development on the site, notwithstanding the details submitted, full details, locations, specifications and construction methods for all purpose built tree pits and associated above ground features, shall be submitted to and approved in writing by the Local Planning Authority. Details must include specifications for the installation of below ground, load bearing root trenches, root barriers, irrigation systems and a stated volume of a suitable growing medium to facilitate and promote the healthy development of the proposed trees. The development shall be carried out in accordance with the details so approved.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

16. That prior to the commencement of any development on the site, notwithstanding the details submitted, full details, specifications and construction methods for all tree pits located within soft landscaped areas shall be submitted to and approved in writing by the Local Planning Authority. Details must also include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching. The development shall be carried out in accordance with the details so approved.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

17. Prior to commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to

and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.

- a) Written confirmation of the contact details of the project arboriculturalist employed to undertake the supervisory role of the relevant arboricultural issues.
- b) The relevant persons/contractors to be briefed by the project arboriculturalist on all on-site tree related matters.
- c) The timings and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
- d) The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents.
- e) Details of appropriate supervision for the installation of load-bearing 'structural cell' planting pits and/or associated features such as irrigation systems, root barriers and surface requirements (e.g. reduced dig systems, arboresin, tree grills).

Reason – To ensure the continued health of retained trees and hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

18. That prior to the first occupation of the proposed development, the proposed means of access onto the perimeter road shall be formed and laid out to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications, and that all ancillary works specified shall be undertaken.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with government Guidance contained within the National Planning Policy Framework.

19. Before the development is first occupied the proposed vehicular access driveway turning areas and footway links to serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with the specification details which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with government Guidance contained within the National Planning Policy Framework.

20. Before the development is first occupied the parking and manoeuvring areas shall be provided in accordance with the plan (180601Y/P002) hereby approved and shall be constructed, laid out, surfaced, drained and completed, and shall be retained unobstructed except for the parking of vehicles at all times.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with government Guidance contained within the National Planning Policy Framework.

21. That prior to the commencement of any development on the site, a Construction Travel Plan to include wheel washing facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the plan approved.

Reason – In the interests of highway safety and to comply with Government Guidance contained within the National Planning Policy Framework.

22. That prior to the commencement of any development on the site, full SUDS drainage details for the development shall be submitted to and approved in writing by the Local Planning authority. The development shall be carried out in accordance with the details agreed.

Reason – To ensure satisfactory drainage of the site and to comply with central Government Guidance in the NPPF.

23. Notwithstanding the provisions of Classes A to E (inc) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 1995 and its subsequent amendments, the approved dwellings shall not be extended, nor shall any structures be erected within the cartilage of the said dwellings, without the prior express planning consent of the Local Planning Authority.

Reason – To ensure and retain the satisfactory appearance of the development and the historical integrity of the buildings, to enable the Local Planning Authority to retain planning control over the development in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

24. Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 1995 and its subsequent amendments, no new windows, doors or any other openings, other than those shown on the approved plans shall be inserted in the walls or roofs of the dwellings without the prior express consent of the Local Planning Authority.

Reason – To ensure and retain the satisfactory appearance of the development and the historical integrity of the buildings, to enable the Local Planning Authority to retain planning control over the development in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

25. The garages and car ports shown on the approved plans shall not be converted to provide additional living accommodation without the prior express planning consent of the Local Planning Authority.

Reason – to ensure the satisfactory provision is made for the parking of vehicles within the site and to retain the satisfactory appearance and

character of this development, to comply with Policies BE1 and T4 of the South East Plan and Policy C28 of the adopted Cherwell Local Plan and Central Government Guidance contained within the National Planning Policy Framework.

26. No works of site clearance, demolition or development shall take place until a protected species mitigation and enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the following:-
- a) The findings of two further bat emergence/dawn surveys carried out between the months of May to August inclusive.
 - b) A bat mitigation scheme, to be informed by the findings of the surveys and work already done.
 - c) The number, type and location of replacement (if necessary) and new bat roosting features.
 - d) The number, type and location of replacement bird nest boxes for little owl, swallows and any other desired species.

All works shall be carried out in accordance with the approved scheme.

Reason – to ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy NRM5 of the South East Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

27. No works of demolition, renovation or construction shall take place within any former agricultural building between the months of March to August inclusive, unless checked immediately beforehand by a suitably qualified ecologist for the presence of nesting birds. If nesting birds are found to be present, no works are to take place in that area until the birds have fledged.

Reason – to ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy NRM5 of the South East Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

28. Prior to the commencement of any development, the existing public right of way (fP161/1) shall be protected and fenced in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and shall be maintained unobstructed and open to the public at all times.

Reason In the interest of public safety and amenity and to ensure that the right of way is not obstructed and to comply with Government Guidance contained within the National Planning Policy Framework

Planning Notes

1. No development shall take place across any public footpath/right of way unless it has been legally stopped up or diverted.

2. Attention is drawn to the legal agreement which relates to this development which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.
3. The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The Planning Department must be immediately advised of any proposed variation from the approved documents and the prior approval of this Council obtained before any works are carried out on the site. This may require the submission of a further application. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also subsequently lead to prosecution.
4. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
5. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.
6. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal will not have a detrimental affect on the visual amenities of the locality and is acceptable in its form, scale and design and respects the character of the original farmyard, and will not cause harm in terms of highway safety, the wider rural landscape and ecology. As such the proposal is in accordance with Policies CC1, CC4, CC6, CC7, T1, T4 and BE1 of

the South East Plan 2009 and Policies C2, C28 and C30 of the adopted Cherwell Local Plan and Government advice within the National planning Policy Framework. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.