

<b>Applicant:</b>	Mr M Gough		
<b>Proposal:</b>	Residential development of a single dwelling with associated landscaping and additional community land associated with the Friends Meeting House		
<b>Ward:</b>	Adderbury, Bloxham and Bodicote		
<b>Councillors:</b>	Cllr Mike Bishop Cllr Chris Heath Cllr Andrew McHugh		
<b>Reason for Referral:</b>	In light of public interest		
<b>Expiry Date:</b>	9 May 2017	<b>Committee Date:</b>	18 May 2017
<b>Recommendation:</b>	Approval	<b>Extension of time:</b>	22 May 2017

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## 1. APPLICATION SITE AND LOCALITY

- 1.1. The site is an area land at the edge of the village of Adderbury with an existing gated access off Horn Hill Road. There are residential properties to the north of the site, accessed from within the village off Manor Road and further residential properties along Horn Hill Road east of the site. Immediately adjacent the site to the south is an existing burial ground and Grade II\* listed 'Friends Meeting House' and there is open countryside to the west. The land is classified as Grade 2 agricultural land; although at the time of application the land had the appearance of unused scrub land.
- 1.2. In terms of site constraints, the site is situated partially within the designated Adderbury Conservation Area; although the majority of the site and area for the proposed dwelling and burial site extension sit outside of the Conservation Area boundary. There are several listed Heritage Assets adjacent and in close proximity and along Horn Hill Road, north-east and south-east of the site and the site is within an area of medium archaeological interest. Land adjacent and north of the site is designated as a BAP Priority Habitat and there area records of Swifts being present within the vicinity of the area. The site is within a buffer zone surrounding an area of potentially contaminated land and also the geology in the area is known to contain naturally occurring elevated levels of arsenic, chromium and nickel, as is seen in many areas throughout the district. There are no other significant site constraints relevant to planning and this application.

## 2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks permission for the erection of a single two storey 4-bedroom dwelling house with associated access drive, parking and landscaping; and also for a change of use of land for community use to be used in association with the Friends Meeting House. The dwelling is proposed to be constructed of natural stone under a slate roof with a footprint of ~232m<sup>2</sup>, located ~135m west of Horn Hill Road

and ~130m south of Manor Road. The extension of the land associated with the Friends Meeting House would see an additional ~0.13Ha of land being incorporated into the overall site.

- 2.2. The application comes following the refusal of two earlier applications (15/01048/F & 16/00619/F) for similar development proposals refused on the grounds as set out in 'Section 3' below. The current application differs from the previous two schemes in that the proposed extension to the burial ground has been removed from the proposals, replaced by the proposed use of a smaller parcel of land (than previously considered for the extension of the burial site) for a community use associated with the Friends Meeting House; the detail and location of the proposed new dwelling remains as previously assessed within application 16/00619/F.

### **3. RELEVANT PLANNING HISTORY**

- 3.1. The following planning history is directly relevant to the proposal:

<u>App Ref</u>	<u>Description</u>
10/00509/F	Change of use of land to form extension to burial ground. Permitted subject to conditions.
10/00510/OUT	Erection of 3 no. dwellings and access to burial ground. Withdrawn following the case officer indicating that the application was to be recommended for refusal, as the site was not within the built up limits of the village and that insufficient information had been submitted to demonstrate that the proposals would not be detrimental to the setting of the Friends' Meeting House.
15/01048/F	Residential development of a single dwelling with associated landscaping and land for an extension to the existing village burial ground. Refused on the following grounds: <ul style="list-style-type: none"><li>• The proposed development constituted sporadic development beyond the built up limits of the Adderbury, which would cause harm to the intrinsic value of the open countryside and rural character, by intrusion into such, which would fail to reflect or reinforce local distinctiveness or preserve the natural environment at this location;</li><li>• Insufficient information had been submitted in relation to the proposed burial site in terms of land levels and ground conditions to clearly establish whether the land was suitable for use as a burial site or whether its use as such would likely cause a risk of groundwater pollution.</li></ul>
16/00619/F	Residential development of a single dwelling with associated landscaping and land for an extension to the existing village burial ground - Resubmission of 15/01048/F. Refused on the same grounds as 15/01048/F detailed above. Appeal dismissed 17 February 2017.

- 3.2. An appeal by the applicant against the refusal of 16/00619/F was subsequently dismissed by an inspector in February 2017; dismissed on the grounds of the proposals failing to protect and enhance the natural environment; with the extension to the burial ground likely to have an unacceptable effect in terms of environmental

pollution. In reaching his decision on the appeal the inspector concluded that whilst the extension to the burial ground was not in accordance with the development plan, the development of the dwelling house in this location would likely be acceptable, stating that it: *'....would be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity'* and further, *'...it would not cause visual intrusion into the open countryside'*. The inspector's decision is therefore clearly a material consideration in the determination of this current application.

#### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
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13/00365/PREAPP	Pre-application advice - housing development
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14/00040/PREAPP	Single dwelling with access from Horn Hill Road
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- 4.2. In responding to initial pre-application enquiries, detailed above, officers raised concerns in relation to the principle of development and the harm that would be caused, not only to the intrinsic value of the open countryside and rural character but also to identified Heritage Assets i.e. the setting of the Friends Meeting House and the Conservation Area.
- 4.3. No further pre-application advice has been requested or given, prior to the submission of this current application, following the refusal of application 16/00619/F and subsequent dismissed appeal (ref. APP/C3105/W/16/3158760).

#### **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 27.04.2017, although comments received after this date and before finalising this report have also been taken into account.

- 5.2. The comments raised by third parties are summarised as follows:

- The proposals represent development beyond the built-up limits of the village in open countryside, which is neither essential for agriculture nor affordable housing;
- Detrimental impact on adjacent heritage assets and their setting; Grade II \* Friends Meeting House, grade II listed boundary walls and Adderbury Conservation Area;
- Detrimental impact on the character and appearance of the locality;
- Detrimental impact on highway safety;
- Detrimental ecological impact; including the potential to impact on Great Crested Newts indicated as being present adjacent the site, and the wildlife and flora and fauna on the site;
- Potential for flood-risk;

- The proposed contribution to the up-keep of the Friends Meeting House is not proportionate to the actual costs indicated within a report by Wellan Ltd, and is considered as '*an attempt to buy planning permission*';
- The proposed gifting of land may result in an inappropriate pedestrian route through the cemetery to the new developments on Milton Road and proposed sports pitches;
- Contrary to Adderbury Neighbourhood Plan;
- It will set a precedent for further development.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. ADDERBURY PARISH COUNCIL: **Objects.** '*The proposed development is in open countryside, which is outside the residential settlement boundary and therefore contrary to policy AD1 of the emerging Adderbury Neighbourhood Plan*'.

### STATUTORY CONSULTEES

6.3. HIGHWAYS AUTHORITY: **No objections subject to conditions.**

6.4. HISTORIC ENGLAND: **No objections.**

6.5. MINERALS AND WASTE: **No objections.**

### NON-STATUTORY CONSULTEES

6.6. ARBORICULTURAL OFFICER: **No comments received.**

6.7. ARCHAEOLOGIST (OCC): **No objections subject to conditions.**

6.8. DESIGN AND CONSERVATION: **No formal comments received**, however has verbally confirmed the position of the Conservation Team has not changed from that expressed during previous application, in which an objection was raised.

6.9. ECOLOGIST: **No objections subject to conditions.**

6.10. ENVIRONMENTAL PROTECTION: **No objections subject to conditions.**

6.11. LANDSCAPE SERVICES: **No objections.**

## 7. RELEVANT PLANNING POLICY AND GUIDANCE

7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

### CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031)

- PSD1: Presumption in Favour of Sustainable Development
- Villages 1: Village Categorisation
- ESD 3: Sustainable Construction
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the built and historic environment

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV12: Development on contaminated land

#### Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Adderbury Neighbourhood Plan (ANP)

The Neighbourhood Plan for Adderbury is still at an early stage. A pre-submission version of the plan has been accepted by the Parish Council and is due to be submitted to Cherwell District Council in due course. Given the early stages of the plan, in accordance with Paragraph 216 of the NPPF, no significant weight can be given to it as a material consideration at this time.

## **8. APPRAISAL**

### 8.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area; including the impact on heritage assets
- Residential amenity
- Highway safety
- Ecology and Biodiversity
- Archaeology
- Flood-risk and groundwater

#### Principle

- 8.2. The National Planning Policy Framework (the NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 8.3. Paragraph 6 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system. It is clear from this that sustainability concerns more than just proximity to facilities, it clearly also relates to ensuring the physical and natural environment is conserved and enhanced as well

as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.

- 8.4. Policy PSD1 contained within the CLP echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 8.5. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5.6 year housing land supply. The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 8.6. As with the previous submissions (15/01048/F & 16/00619/F), whilst the application stands to be considered as a whole it is considered that the proposals have two distinct elements that require consideration: 1) The extension to the community land associated with the Friends Meeting House; 2) The construction of a single dwelling house and associated parking, landscaping and access.
- 8.7. As noted during the determination of the previous application (16/00619/F), the principle of an extension of the burial ground has previously been considered acceptable with the granting of permission (subject to conditions) in 2010.
- 8.8. However the suitability of the use of the land subject of the most recent applications for burials was not clearly established within supporting information, and ultimately resulted in reasons contributing to refusal of these applications and the reason for the dismissal of the subsequent appeal against 16/00619/F. The use of land proposed under this current application is for community use associated with the Friends Meeting House, and the applicant's indicate that the site would not be used for burials; as such the same environmental concerns as expressed during previous applications are no so significant in consideration of the proposals.
- 8.9. Whilst the extension of the land associated with the Friends Meeting House site would encroach into the open countryside, the use is likely to be unobtrusive and it is considered that subject to appropriate landscaping, in principle it could be an acceptable use in this location and would deliver social benefits for the community.
- 8.10. Turning to the principle of the proposed dwelling, Policy Villages 1 of the CLP 2031 groups villages into three separate categories (A, B and C). Adderbury is recognised as a 'Category A' village, considered to be one of the most sustainable villages within the district given its services and facilities. Within 'Category A' villages new residential development will be considered for the conversion of non-residential buildings, infilling and minor development within the built up area of the settlement.
- 8.11. The siting of the proposed dwelling has not changed from that assessed during the determination of application 16/00619/F. In the previous application officers were of the opinion that the proposed dwelling was situated beyond the built up limits of the village and therefore could not be assessed under Policy Villages 1 of the CLP 2031. However, in determining the appeal against the refusal of 16/00619/F the inspector appears to draw a different conclusion and whilst noting that the site had a more 'rural feel', considered that the site was within the built up limits, stating at paragraph 16 of the appeal decision: *'Further, the proposal would also meet the criteria concerning the context within the existing built environment, being in keeping with the character and form of the village, its local landscape setting and the scale of development in CLP Policies Villages 1'*. Officers are obviously mindful of the Government's position (as expressed by the Inspector) with regards to the siting of the proposals in the current application.

- 8.12. Policy Villages 1 allows for the most sustainable villages to accommodate 'minor development' and all villages to accommodate infilling or conversions. When considering what constitutes the appropriate form of development, this will vary depending on the character of the village and development in the immediate locality. The Policy further states :

*In assessing whether proposals constitute acceptable 'minor development', regard will be given to the following criteria:*

- *the size of the village and the level of service provision*
- *the site's context within the existing built environment whether it is in keeping with the character and form of the village*
- *its local landscape setting*
- *careful consideration of the appropriate scale of development, particularly in Category B (satellite) villages.*

- 8.13. As noted above Adderbury is a 'Category A' village (most sustainable settlement), and the site is within walking distance of the centre of the village and all the services and facilities that it has to offer.

- 8.14. The settlement pattern in the vicinity of the site is characterised by a loose-knit pattern of residential development with larger properties set in more spacious, mature landscaped plots of different shapes and sizes. As also noted in the Inspector's appeal decision, these dwellings are of a variety of ages, styles and size and they are set back varying distances from the road and there is no regular alignment.

- 8.15. Whilst set further back from other properties sited along Horn Hill Road the proposed dwelling would retain a presence within the street-scene, albeit a narrow frontage with access through to the dwelling and there would be further residential properties to the north; and in this regard the proposals are considered to demonstrate a degree of consistency with the established pattern of development within the village.

- 8.16. Notwithstanding the refusal of previous applications, the scale and design of the proposed dwelling have been considered acceptable, and such matters have not been brought forward as a reason for refusal; a view upheld by the inspector in dismissing the appeal against the refusal of application 16/00619/F. The proposed development would be characteristic of a traditional farmhouse and would be constructed of materials which would integrate well with those of both the neighbouring properties and the wider village. The design and scale of the proposed dwelling has not changed from that assessed under application 16/00619/F and is again considered acceptable; this is expanded on below.

- 8.17. Given the above and the stance adopted by the Government's Inspector, it is considered that the proposals would constitute an appropriate form of sustainable minor development, within the built-up limits of the village; the principle of development is therefore considered acceptable subject to further considerations with regards to visual and landscape impact, impact on heritage assets, highway safety and ecology and biodiversity, discussed further below.

Design, and impact on the character of the area; including the impact on heritage assets

- 8.18. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP which looks to promote and support development of a high standard which

contributes positively to an area's character and identity by creating or reinforcing local distinctiveness.

- 8.19. Policy ESD13 of the Cherwell Local Plan states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. It goes on to state that proposals will not be permitted if they would result in undue visual intrusion into the open countryside or would harm the setting of settlements. Further, Policy ESD15 of the CLP 2031 requires new development to complement and enhance the character of its context through sensitive siting, layout and high quality design. New development should, amongst other things, respect the traditional pattern of routes, spaces, blocks, plots and enclosures as well as the form, scale and massing of buildings.
- 8.20. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the urban or rural context of that development. Further, saved Policy C30 of Cherwell Local Plan 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 8.21. As noted above the site straddles the boundary of the Adderbury Conservation Area and there are Grade II\* and Grade II listed buildings within proximity to the site. The Conservation Area and listed buildings are defined as designated Heritage Assets in the NPPF.
- 8.22. The NPPF requires Local Planning Authorities to take account of the desirability of sustaining and enhancing the significance of Heritage Assets and seeks to ensure that new development should make a positive contribution to local character and distinctiveness. It goes on to state when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Significance can be harmed or lost through alteration or destruction of a Heritage Asset and any harm or loss should require clear and convincing justification. It goes on to state that where development proposals will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Policy ESD 15 of the CLP echoes this advice.
- 8.23. Furthermore Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken and Section 72 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 8.24. With regard to the impact on heritage assets, Historic England (H.E.) has assessed the proposals and makes no comments, advising that: *'the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice'*. However, it should also be noted that previously H.E. raised no objections to the proposals assessed within application 16/00619/F, and made the following comments in relation to the proposed new dwelling and its relationship to the grade II\* Friends Meeting House: *'We are therefore content that the new building would not be a strong presence within the setting of the listed building. If this roof was constructed out of traditional local materials, such as Stonesfield slate with stone gables, its presence would be benign and would not be considered to harm the significance of the Meeting House'*.
- 8.25. The general nature of the proposals and potential impact on heritage assets remains as previously assessed under application 16/00619/F. Whilst no formal comments have been received with regards to the current application, the Council's Conservation Officer has previously raises concerns with regards to the potential impacts of the proposals on the tranquillity and setting of the adjacent Grade II\*



listed Friends Meeting House, through the domestication of the site in her response to application 16/00619/F.

- 8.26. As can be seen from the historical map (Plan EDP 2: Extract from First Edition Ordnance Survey Map (1881-1882)) within the applicant's 'Heritage Setting Assessment', the Friends Meeting House was originally divorced from the village providing a tranquil and discreet setting for the Quaker Meeting House and burial ground; this tranquillity and remoteness is considered to contribute to the historical significance of the Heritage Asset. However over time the meeting house has become a more integral feature of the village, through surrounding incremental development, and the remoteness has become eroded.
- 8.27. The applicants have demonstrated that, subject to quality materials being used in the construction, the proposed new dwelling would not have a significant detrimental visual impact on the setting of the listed building and associated boundary walls. On balance, it is considered that whilst the domestication of the site adjacent the Friend's Meeting House would have an impact on the setting of this building, that it would not be so significant that it would be to the detriment of the historic or architectural significance of the Heritage Asset, a view previously upheld by H.E. and as such not a reason to refuse the application.
- 8.28. As with previous submissions, it is considered that the extension of the land associated with the Friends Meeting House is likely to be unobtrusive, and, subject to appropriate landscaping and boundary treatments, it is unlikely that it would have a significant detrimental impact on the character and appearance the landscape within which it sits.
- 8.29. The applicants have submitted a Landscape Visual Impact Assessment (LVIA) which concludes that: *'the proposals represent a small-scale development which is entirely in-keeping with the local landscape character and would not therefore result in any material landscape or visual effects or policy contravention'*. Views of the proposed new dwelling and its associated residential curtilage from the public domain would be fairly limited, with principal views coming from surrounding properties, the adjacent cemetery and glimpsed views through the access from Horn Hill Road. The proposed new dwelling would be characteristic of a traditional farmhouse and would be constructed of materials which would integrate well with those of both the neighbouring properties and the wider village.
- 8.30. Whilst the proposals would change the existing characteristics of the site, as noted above and in the Inspector's appeal decision report, given the limited visibility of the proposals from the public domain, any potential visual harm is likely to be localised and would not significantly impact on the wider landscape and the edge of village setting. Some distant views from the Milton Road to the south would likely be possible, but to some extents these could be mitigated and screened by an appropriate landscaping scheme. This would ensure that any visual intrusion into the open countryside would not be so significant that it would warrant a reason to refuse the application.
- 8.31. On balance the proposals would unlikely result in any significant detrimental impacts on the visual amenities of the site or on the setting of adjacent heritage assets. It is considered that specific appropriate detailing and choice of construction materials and an appropriate landscaping scheme could be secured through the approval of appropriate conditions attached to any such permission, to ensure the satisfactory appearance of the completed development. It is considered that the proposed development would sustain the character and appearance of the conservation area and the edge of village setting and is therefore acceptable in this regard.

#### Residential Amenity

- 8.32. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions

are echoed in Policy ESD15 of the CLP 2031 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.

- 8.33. The plans submitted with the application clearly indicate a new dwelling with an internal layout and outdoor garden/amenity areas which are likely to provide a good standard of living for potential future occupants.
- 8.34. The proposed new driveway would run through land adjacent the existing garden of Bridge House, which has a relatively open boundary, with post and wire fencing. The proposed dwelling itself is sited as such that it would not directly impact on this garden area. Given the separation distances between the proposed and existing dwellings, the existing boundary hedgerow/trees, which would interrupt views to the north, it considered that the impact on neighbour amenity is not significant with limited potential for overlooking, loss of privacy or an overbearing impact, and the proposals are therefore acceptable in this regard. Likewise, noise generated from traffic using the new driveway is unlikely to be materially significant or harmful to the amenities of the occupiers of neighbouring properties.

#### Highway Safety

- 8.35. The details of the proposed scheme have not significantly changed in terms of highway safety implications from those assessed and considered acceptable (in highway safety terms) in the assessment of application 16/00619/F.
- 8.36. The Highways Authority has again assessed the proposals and raises no objections subject to conditions being applied to any permission requiring that: the access to the site is created in accordance with the geometry indicated on the submitted plans and in accordance with Oxfordshire County Council's specification and guidance, and further that prior to the commencement of any development that full specification details (including construction, layout, surfacing and drainage) of the access drive and parking and manoeuvring areas are submitted to and approved in writing by the Local Planning Authority; this is in line with previous recommendations on applications 15/01048/F & 16/00619/F and shows consistency in terms of opinion and approach, in light of sustained objections from local residents.
- 8.37. Officers see no reason not to agree with the opinion of the Highway Authority. The proposed site is served by an existing access off Horn Hill Road, which is set back from the edge of the carriageway, allowing appropriate vision splays at the access point. The scheme has a driveway and parking provision which is considered appropriate for the level of accommodation proposed, and would not lead to a demand for on-street parking.
- 8.38. Whilst Horn Hill Road is fairly constrained with instances of on-street parking, it is considered that the modest increase in traffic associated with the development of a further dwelling can be accommodated without significant detrimental impact on the safety and convenience of highway users.
- 8.39. Officers consider that, subject to the requirements of H.A. being satisfactorily addressed through the approval of appropriate conditions (ensuring that the site is adequately surfaced and drained), that the proposals would not significantly impact on the safety and convenience of highway users and is therefore acceptable in terms of highway safety.

#### Ecology and Biodiversity

- 8.40. The NPPF – Conserving and enhancing the natural environment, requires that "the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in

biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (Para. 109).

- 8.41. Paragraphs 192 and 193 further add that “*The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question*”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- 8.42. Local planning authorities must also have regard to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 8.43. In respect to the application site, an Ecological Appraisal was originally undertaken by The Environmental Dimension Partnership in 2015, further surveys were carried out in March 2017 and revised survey reports submitted with the current application. The Council’s Ecologist has again reviewed the appraisal report and its findings and recommendations. The report is again considered largely acceptable; although as was previously advised during application 16/00619/F it is considered that some further information would be required to outline protection of the current biodiversity interest on site (trees, hedges and wildlife) in a Construction Environmental Management Plan (CEMP) and further specific details in relation to the biodiversity enhancements suggested throughout the ecological appraisal.
- 8.44. The report makes several observations and recommendations; it is considered that it would appropriate to condition that, if the application should be approved, it is carried out in accordance with the details of this report and the further information considered necessary by the Ecologist is submitted and approved by the Council, to ensure that the development does not cause harm to any protected species or their habitats and provides a net gain in biodiversity.
- 8.45. Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land could be safeguarded, subject to appropriate conditions attached to any such permission, notwithstanding the proposed development. It is therefore considered that the proposal therefore is acceptable in this respect having regard to the Framework - Conserving and enhancing the natural environment and Policy ESD 10 of the CLP.

#### Archaeology

- 8.46. The County Council’s Archaeologist initially raised concerns with regard to the potential impact on the area which is considered to be of archaeological interest given its proximity to recent finds. Archaeological features have been discovered on a site 150m south of the application site and the development could therefore impact on any further features related to these sites despite the relatively small scale nature of the development. In light of the Archaeologist’s comments the applicant undertook a ground investigation and submitted an Archaeological Evaluation Interim Report (AEIR).

- 8.47. The County's Archaeologist is satisfied with the findings of the AEIR at this stage but recommends that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. It is considered that this requirement could be ensured through appropriate conditions attached to any such permission; in the interests of safeguarding the identification, recording, analysis and archiving of heritage assets before they are lost, and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence, in accordance with guidance set out in the NPPF.

#### Flood-risk and groundwater

- 8.48. There are a number of springs within the vicinity, and as acknowledged within the assessment of the area in the previous application (16/00619/F), it is suspected to have a high water table. Concerns have also been raised with regards to the potential for the development to be susceptible to flooding and exacerbate flood-risk to surrounding properties. However the site is not within an area identified by the Environment Agency (E.A.) at a higher risk of flooding (Flood Zone 2 or 3) or an area susceptible to flooding from surface water. The E.A. previously raised no concerns with regards flood-risk either on site or an increased risk to neighbouring properties and given the context officers see no reason to consider otherwise. The proposed dwelling would be required to have an acceptable drainage scheme, subject of separate Building Regulations approval, and areas of hardstanding would be required to be of permeable construction; which could be secured through appropriate conditions and in line with the Highway Authority's recommendations.
- 8.49. With regard to the extension of the land associated with the Friends Meeting House, as concluded within the assessment of the previous application 16/00619/F, it is considered that it cannot be clearly established whether the land is suitable for use as a burial site or whether its use as such would likely cause a risk of groundwater pollution. Whilst the applicant's indicate that the proposed extension of the land associated with the Friends Meeting House would not be used for burials it is considered appropriate to condition any such permission to this end to ensure that the proposed use of the land would not result in any potential groundwater pollution in accordance with the provisions and aims of Policy ENV1 of the CLP 1996 and guidance within the NPPF.

#### Other Matters

- 8.50. The applicant proposes within the application to convey the land necessary for the community use to the Parish Council and also a £100,000 contribution towards the works necessary for the upkeep of the Friends Meeting House, and a draft unilateral undertaking has been submitted, with the intention of securing these matters.
- 8.51. Comment has been made by various parties as to the actual costs involved in maintaining the Friends Meeting House and the appropriateness of any such financial contribution. The Friends Meeting House is currently maintained by the Parish Council whilst financial contribution to the upkeep of the building would ease the financial burden on the Parish.
- 8.52. Whilst the Unilateral Undertaking has been progressed with the applicant, it is considered that a financial contribution and gifting of land does not make the proposed dwelling any more acceptable in planning terms and is not necessary to ensure the development proposals are in accordance with the policies of the development plan. As such these planning obligations do not meet the tests of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and cannot constitute a reason for granting planning permission. The Unilateral Undertaking put forward by the applicant is therefore not a material consideration in the determination of the planning application.

- 8.53. Concerns have been raised with regard to the potential for a pedestrian access to be created linking Horn Hill Road with the Milton Road to the south and a proposed community/recreational use of land south of the site. Permission has previously been granted in 2010 for a change of use of land from agricultural use to recreational use on land north of Milton Road under ref. 10/00508/F; this permission appears to have lapsed without being implemented.
- 8.54. Whilst indicative plans have been included within the application's supporting information, the proposed change of use of land for recreational use and associated access are outside of the current site's boundary and do not form part of the proposals for consideration under this application. As such these elements are not considered a material consideration and have not been assessed as part of the application.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposed development is similar in its nature to that assessed and refused under application 16/00619/F, with an appeal subsequently being dismissed on the grounds of likely having an unacceptable effect in terms of environmental pollution. However, within the current submission the applicant has resolved to remove the proposed extension to the burial ground from the scheme, thus removing one of the previous reasons for refusal put forward by the Council and the only reason for the Inspector dismissing the appeal for the proposed development of a new dwelling on the site.
- 9.3. Adderbury is considered to be one of the most sustainable settlements within the district being categorised as a Category A village within Policy Villages 1 of the CLP. Whilst the proposals would result in some localised visual impacts, in light of the recent appeal decision these are not considered to be such that it would significantly detract from the visual amenities of the site and its edge of village setting and warrant a reason to refuse the application that could later be sustained. The proposals are not considered to represent development that would have any significant detrimental impacts on visual amenity, neighbour amenity, highway safety or the setting of the adjacent Heritage Assets and are considered to comply with other identified policies within the Development Plan. It is further considered that the proposals are largely in accordance with the policies of the NPPF, including Section 5: 'Delivering a wide choice of high quality homes', Section 7: 'Requiring good design', and Section 11: 'Conserving and enhancing the historic environment'.
- 9.4. The proposals would provide social and economic benefits through providing additional residential accommodation and construction employment and trade opportunities within the local area supporting the district's economy. The proposals are not considered to be of any significant detriment to the environment and sustain the character and appearance of the site's edge of village setting, the Adderbury Conservation Area and setting of other heritage assets within proximity of the site.
- 9.5. Given the above assessment in the light of current guiding national and local policy context and other material considerations, including the Government's appeal decision, officers consider that the proposals represent an appropriate form of sustainable development within the built up limits of the village. As such, the proposals are considered to comply with the Development Plan and above mentioned policies and are therefore recommended for approval as set out below.

## 10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. The development to which this permission relates shall be begun 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 attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Application form, Design and Access Statement (March 2017), Planning Statement (March 2017), Heritage Setting Assessment (March 2017), Ecological Appraisal (March 2017), Findings of Arboricultural Baseline Assessment (March 2017), Landscape and Visual Appraisal (March 2017) and drawings numbered: PL-01c\_Location Plan, HT-01B\_Plans, HT-02\_Elevations, HT-03a\_Sections, PL-03e\_Planning Layout, PS-01\_Perspective 1 and PS-01\_Perspective 2.

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

3. Prior to the commencement of the dwelling hereby approved, a sample of the slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter 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 ensure that the completed development is in keeping with and conserves the special character of the adjacent Conservation Area, to comply with Saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the dwelling hereby approved, a stone sample panel (minimum 1m<sup>2</sup> in size) shall be constructed on site in natural stone, with lime mortar and no cement gauging, 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 satisfactory appearance of the completed development and to ensure that the completed development is in keeping with and conserves the special character of the adjacent Conservation Area, to comply with Saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

5. Notwithstanding the details submitted, prior to the commencement of the dwelling, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the doors and windows and their surrounds shall be installed within the building in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to ensure that the completed development is in keeping with and conserves

the special character of the adjacent Conservation Area, to comply with Saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

6. All rainwater goods shall be traditional cast iron or metal painted black and permanently so retained thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to ensure that the completed development is in keeping with and conserves the special character of the adjacent Conservation Area, to comply with Saved Policy C28 of the Cherwell Local Plan 1996, Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the construction of the dwelling hereby approved, the proposed means of access between the land and the highway shall be constructed as per the geometry as shown on approved plan PL-03e\_Planning Layout, and shall be formed, laid out and constructed strictly in accordance with Oxfordshire County Council's current specification and guidance.

Reason - In the interests of highway safety and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the dwelling hereby approved, full specification details of the access drive, parking and manoeuvring areas, including construction, surfacing, layout and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the dwelling, the access drive, parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

9. Notwithstanding the information submitted, prior to the commencement of the development hereby approved, a landscaping scheme for the entire site shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site 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, including pavements, pedestrian areas, reduced-dig areas and steps;
- (d) details of all boundary treatments.

Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme.

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 Policies ESD 13 and ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance

contained within the National Planning Policy Framework.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the dwelling or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting 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 current/next planting season with others of similar size and species.

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 ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a detailed method statement and timings for enhancing biodiversity on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details and timings.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

13. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, (to include those measures outlined in section 6.4 of the Ecological Appraisal submitted with the application which was prepared by EDP dated March 2017), 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 CEMP.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

14. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation,



relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

15. Following the approval of the Written Scheme of Investigation referred to in condition 14, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority as soon as practicable following completion.

Reason - To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

16. The land proposed for community use (as shown on approved plan PL-03e\_Planning Layout) in association with the Friends Meeting House, hereby approved, shall not be used for the purpose of burials, without the express planning permission of the Local Planning Authority.

Reason - It has not been established whether the land is suitable for use as a burial site or whether its use as such would likely cause a risk of groundwater pollution; in accordance with provisions and aims of Policy ENV1 of the Cherwell Local Plan 1996, Policy ESD 8 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### PLANNING NOTES:

1. 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.
2. 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 01635 268881.
3. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease

until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.

4. With regard to conditions 9 & 10 (landscaping scheme) all species used in the planting proposals associated with the development should be native species of UK provenance.

CASE OFFICER: Bob Neville

TEL: 01295 221875