

Case Officer: Bob Neville

Applicant: Fernhill Land Holdings Ltd

Proposal: Erection of 3 No. dwellings and associated garages.

Ward: Cropredy, Sibfords and Wroxton

Councillors: Cllr Phil Chapman
Cllr George Reynolds
Cllr Douglas Webb

Reason for Referral: Called in by Councillor George Reynolds

Expiry Date: 18 November 2019

Committee Date: 14 November 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

The application seeks planning permission for three 1½ storey detached dwellings (2 no. 3-bedroom and 1 no. 2-bedroom) with detached double garages; with associated access and landscaping.

Consultations

The following consultees have raised **objections** to the application:

- The Bourtons Parish Council

The following consultees have raised **no objections** to the application:

- OCC Highways, OCC Archaeology, CDC Building Control, CDC Ecology

A petition with 79 signatures and 13 letters of objection have been received and no letters of support have been received.

Planning Policy and Constraints

In terms of site constraints, the application site is not within a conservation area and there are no listed buildings within the immediate vicinity of the site. There are listed buildings within the village to the north of the site, the nearest being the Coach House. The site is within an area of some (medium) archaeological interest and also an area known to be affected by Radon Gas.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is an area of agricultural/paddock land (currently rough grassland) on the southern edge of the village of Great Bourton. The site is surrounded on three sides by existing residential properties with open countryside beyond the site's southern boundary. The topography within the site is relatively level, with no significant changes in the landform within the immediate area.
- 1.2. In terms of the surrounding highway network, School Lane to the north and east of the site is a predominantly narrow, single-track lane, which links to the main street to the north of the site and to Crow Lane and Foxden Way to the east of the site; which again are narrow rural routes.
- 1.3. The boundaries to the rear of the residential properties surrounding the site vary in terms of their type and scale; and include, hedgerow planting, timber fencing and post and wire fencing. The western boundary of the site is a mature hedgerow containing a number of trees. The southern boundary of the site consists of a post and rail fence, which is a more recent feature subdividing a large parcel of agricultural land.

2. CONSTRAINTS

- 2.1. In terms of site constraints, the application site is not within a conservation area and there are no listed buildings within the immediate vicinity of the site. There are listed buildings within the village to the north of the site, the nearest being the Coach House. The site is within an area of some (medium) archaeological interest and also an area known to be affected by Radon Gas.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for three, detached, 1½ storey dwellings (2no. 3-bedroom and 1no. 2-bedroom) with detached double garages; with associated access and landscaping.
- 3.2. The proposals have been amended during the application, in response to officer comments, revising the proposed materials and also a minor re-siting of the garage

serving plot 3. As a result of the amendments, the dwellings are proposed to be of red brick finish under a natural slate roof. The proposed garages would be predominantly of timber construction sitting on a brick plinth and under a natural slate roof. The site would be accessed from the adjacent School Lane via a new access between the Paddocks and Stonelea east of the site.

- 3.3. The proposals include new hard and soft landscaping within the site, with a proposed new hedgerow to the southern boundary of the site. The proposals also retain the existing mature hedgerow along the western boundary of the site.
- 3.4. The application has gone beyond its original 8-week target as a result of the application being called-in for consideration by the planning committee. As such an extension of the determination period has been agreed with the applicant.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
CHN.312/87	(Outline) 3 housing sites (2 detached houses and 1 bungalow).	Application refused

Application refused on the grounds of the development being contrary to the rural housing strategy (not constituting infill) and detrimental impacts on highway safety, through the intensification of traffic on nearby road junctions. Appeal subsequently dismissed.

CHN.769/88	(Outline) Bungalow and garage and accesses.	Application refused
------------	---	---------------------

Application refused on the grounds of the development being contrary to the rural housing strategy (not constituting infill), expanding the village and encroaching into the open countryside.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal: 19/00064/PREAPP - Development of up to 5 No dwellings - outline proposal only.
- 5.2. The applicant was advised that, based on the information provided, it would unlikely that an application for five dwellings would be supported, on the basis that it would be contrary to the rural housing strategy in the Local Plan and would lead to an unjustified intrusion into the countryside. However, the applicant was also advised that there may be some potential for bringing forward development that would provide affordable housing, meeting an identified need; and that if there was an intention to progress such proposals further pre-application discussions may be advisable before submitting a formal planning application and once a more detailed scheme had been progressed. Response issued 10/04/2019.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site 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

15 October 2019, although comments received after this date and before finalising this report have also been taken into account.

6.2. 13 letters and a petition containing 79 signatures were received in objection to the application. The comments raised by third parties are summarised as follows:

- Great Bourton is a Category 2 village where new development should be restricted to conversions and infilling within the village. The proposals are infill.
- No need for further houses given the recent new estate on the western edge of the village.
- Highway safety issues including; increased vehicle numbers on the narrow lane with no passing points, detrimental impacts on existing verges where vehicles pull-over to allow passing and poor visibility at the access.
- Conflict between the proposed access and existing driveways.
- Adjacent highway not suitable for large vehicles, including those necessary for construction.
- No public transport within the village. Lack of access to services and facilities.
- Lack of footpath on School Lane means that pedestrians will be at greater risk as a result of increased traffic movements.
- Impact on village infrastructure; including insufficient capacity in the existing sewage system.
- Detrimental impacts on residential amenity; through noise and proximity of development to existing properties.
- Potential increased flood-risk.
- Inappropriate materials.
- The proposed development would cause unnecessary harm to the rural landscape setting of the village through inappropriate expansion of the village onto agricultural land.
- Inappropriate bin storage locations.
- Detrimental impact on wildlife.
- In appropriate landscaping details.
- Previous application on the site have been refused.
- Land ownership issues.

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

7. RESPONSE TO CONSULTATION

7.1. 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

7.2. THE BOURTONS PARISH COUNCIL: **Objects**, making comments on the following issues:

- Highway safety concerns; particularly in relation to the narrow lanes from which the site would be accessed and increased vehicular movements having potential detrimental impacts on other highway users and pedestrians alike.
- Concerns with regard to the proposed access and driveway surfacing materials; likely resulting in increase in noise and create an additional intrusion for neighbouring properties.
- Concerns with regards to the waste and recycling storage and collection area.
- Concerns with regard to the timing and detail of the submitted ecology report and that the proposals do not appear to demonstrate a permanent gain in biodiversity.
- Further comments on the offer of a Community Orchard, by the applicant and that confirmation of this offer is required and that the developer provides a suitable, ongoing, funded and sustainable management plan.
- Advises of a cautious approach being required in relation to archaeological potential at the site.

CONSULTEES

- 7.3. BUILDING CONTROL: **No objections.**
- 7.4. ECOLOGY: **No objections** subject to conditions in relation to securing biodiversity enhancements and protection going forward.
- 7.5. LANDSCAPE SERVICES: No comments received.
- 7.6. OCC ARCHAEOLOGY: **No objections;** commenting that there were no archaeological constraints to the scheme.
- 7.7. OCC HIGHWAYS: **No objections,** subject to standard conditions in respect of width of the access, surfacing, drainage and visibility splays and securing a construction traffic management plan.
- 7.8. THAMES WATER: No comments received.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. 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
- Villages 2: Distributing Growth Across the Rural Areas
- Villages 3: Rural Exception Sites
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC3: Affordable Housing
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the built and historic environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- H18: New dwellings in the countryside

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact

Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.

Policy Context

- 9.3. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within The National Planning Policy Framework (NPPF). 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.
- 9.4. Paragraph 8 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.
- 9.5. Policy PSD1 contained within the CLP 2031 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.
- 9.6. 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-year housing land supply and therefore the policies guiding the provision of new housing development can be given full weight in determining planning applications.
- 9.7. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Great Bourton is recognised as a Category B village where new residential development will be restricted to conversions, infilling and minor development within the built-up area of the settlement. Category B villages are satellite villages associated with a larger service centre, in this instance Bloxham. They do not 'score' highly enough in their own right to be included as Category A villages but are considered to be appropriate for minor development because of the benefits of access to a service centre within a village cluster.
- 9.8. Policy Villages 2 of the CLP 2031 is considered relevant only insofar as it details the Council's rural housing allocation. Policy Villages 2 allocates a total of 750 dwellings to 2031 across the District's 23 Category A settlements (this is over and above minor windfall developments within the built-up limits of the villages). This allocation is already committed, either through completions (271 as at 31 March 2019) or planning permissions (479 as at 31 March 2019, plus others since, including More recently the result of appeals having been allowed (including Tappers Farm, Bodicote in October 2019).
- 9.9. Notwithstanding the above, given that Great Bourton is a Category B village and proposals are for less than 10 dwellings the proposals do not find support from Policy Villages 2.
- 9.10. The proposals have not put been forwarded as a Rural Exception Site and therefore do not find support under Policy Villages 3.
- 9.11. Saved Policy H18 of the Cherwell Local Plan 1996 relates to new dwellings in open countryside and sets out that a new dwelling in the open countryside will only be granted planning permission where it is considered to be essential for agriculture or another existing undertaking or where it meets the criteria for the provision of

affordable housing and in either case where it does not conflict with any other policy in the development plan.

Assessment

- 9.12. The proposals represent minor development for three additional dwellings. The village of Great Bourton does not have a defined settlement boundary within any development plan document, and as such the consideration of whether the site lies within or beyond the built-up limits of the village is a matter of judgement for the decision maker to determine whether the site is located within the built-up limits.
- 9.13. The context of the site is such that, whilst this is agricultural land, beyond the boundaries of residential properties on the edge of the village, there is residential development on three sides the site, and the proposals would have a close relationship with the existing built form.
- 9.14. As noted above applications have previously been refused in this location, in part due to the site being considered not to be within the built-up limits of the village - albeit that this was in a different policy context¹ prior to the adoption of the current Local Plan and the introduction of the NPPF - with a greater emphasis on supporting sustainable forms of development.
- 9.15. The position of the site being considered beyond the built-up limits of the village was upheld by Inspectors (ref. appeal in relation to application CHN.312/87). However, it should be noted that application CHN.312/87 and the subsequent appeal decision related to a larger site area that, whilst relating to the current site, also included land (and proposed development) beyond the southern boundary of the current application site and extended further southwards than the adjacent Stonelea.
- 9.16. If it is taken that the site is not within the built-up limits of the village, the proposals cannot be assessed against the provisions of Policy Villages 1 of the CLP 2031; but instead would stand to be assessed against Saved Policy H18 of the CLP 1996. In this respect the proposals are not for affordable housing and clearly would not be for an essential use and officers would not consider that open market housing would find support under Policy H18.
- 9.17. Officers consider that the judgement as to whether the site is or is not within the village is a very finely balanced one.
- 9.18. It is noted that Inspectors in recent appeals have taken different approaches when assessing the extent of the built-up limits of the village including have reached a different conclusion in this regard than that which was expressed in the 1987 appeal decision.
- 9.19. This is particularly evident in a recent appeal decision against the Council's decision to refuse application 18/01074/F, at an adjacent site (Stonelea) to the east of the site, for a proposal for two dwellings. Whilst the appeal was dismissed (primarily on the grounds of design and residential amenity), the Inspector took the view that the that the appeal site was physically connected to the village and the small scale of the proposal was appropriate to the size of the village and its level of service provision. Further that the appeal site, albeit on the edge of the village, was better related to the built-up limits of Great Bourton and would not specifically as a matter of principle cause undue visual intrusion into the open countryside or be out of place

¹ Within the previous rural housing policy context Great Bourton was categorised as a Category 2 Village which allowed for conversions, infilling and 'other small-scale development that can be shown to secure significant environmental improvement within the settlement'.

with the character and form of the village. While that site was residential garden land and the current site is not, officers consider that the current proposals would be a less visually intrusive form of development than that considered acceptable, in terms of siting, by the Inspector at Stonelea.

Conclusion

- 9.20. Policy Villages 1 of the CLP 2031 provides a categorisation of villages to guide the consideration of small-scale proposals for residential development within the built-up limits of settlements. Village categorisation helps understand which villages are in principle best placed to sustain different levels of residential development. If the proposals were clearly within the built-up limits of the village then the principle of the development would be considered acceptable. If the site was judged to be outside of the built limits of the village then the principle would not be acceptable.
- 9.21. In this instance that judgement is a very finely balanced one.
- 9.22. The Inspector at Stonelea (to the east of the site) considered that site to be acceptable in terms of the sustainability of the location for additional residential development. Officers consider the current site to be less visually intrusive than the Stonelea appeal site, though it is acknowledged this relates to its impact on the character of the area, rather than the *principle* of development.
- 9.23. On very fine balance, and specifically in light of the Stonelea appeal decision, whilst the proposed development would be on agricultural land, given the surrounding context and existing built-form, and that the proposals are considered not to result in significant detrimental impacts on the character and appearance of this edge of village location (discussed further below), officers conclude that the principle of development is acceptable in general sustainability terms, in accord with Local Plan Policy Villages 1. Overall acceptability being subject to further considerations below.

Design, and impact on the character of the area

Policy Context

- 9.24. 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 2031 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.
- 9.25. 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 context of that development. Further, saved Policy C30 of CLP1996 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.
- 9.26. Policy ESD 13 of the CLP 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. Further that development that causes undue harm or visual intrusion into the open countryside would not be supported.

Assessment

- 9.27. The proposals would see the infill of an area of agricultural land that cuts into the village. There is residential development surrounding the site and proposals would be seen in this context. Views from the public domain would potentially be experienced from the surrounding highways and public allotments south of the site along Foxden Way.
- 9.28. In terms of potential impacts on heritage assets, whilst the site is not within a conservation area, there are listed buildings within the village to the north of the site, the nearest being the Coach House. However, given the context and that there are buildings on intervening land it is considered that these heritage assets and their settings would not be affected by the proposed development.
- 9.29. The proposed development is 1½ storeys in scale in response to the surrounding context with bungalows, 1½ storey and 2 storey dwellings in close proximity to the site and the proposals are considered to be of a design that would not appear out-of-place in the edge of village location.
- 9.30. The proposed materials have been amended during the application to be more reflective of local vernacular and now include red brick external wall finish under natural slate roofs; again, this is considered to be consistent with the character and appearance of existing residential properties within the vicinity of the site. Specific samples of materials could be secured through appropriate conditions attached to any permission which the Council may resolve to grant to ensure the satisfactory appearance of any completed development
- 9.31. The proposals include additional landscaping to the boundaries of the site which would provide natural screening both in terms of providing visual relief and assisting in maintaining privacy for both existing surrounding residents and potential future occupants of the proposed development. Whilst no formal comments have been received from the Landscape Officer it is considered that the proposed landscaping is largely acceptable in terms of its approach and nature.
- 9.32. Whilst concerns have been raised in third party comments in relation to species within the landscaping scheme and further in respect of the hard-landscaping, i.e. driveways, it is considered that appropriate details could again be secured in terms of both specific hard and soft landscaping details by way of appropriate conditions.

Conclusion

- 9.33. It is considered that, subject to appropriate materials and landscaping details being secured and approved by way of appropriate conditions, the proposals would be sympathetic to the character and rural edge of village context, embracing the design principles expressed within Cherwell's Residential Design Guide. The proposals would not significantly intrude into the wider open countryside or be to the detriment of the visual amenities of the site or its wider setting, sustaining the character and appearance of this edge of village location.

Residential amenity

Policy Context

- 9.34. Para. 180 of the NPPF advises of the need Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living

conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

- 9.35. 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'.

Assessment

- 9.36. The proposals would provide for an appropriate standard of both internal and external amenity with appropriately sized rooms and substantial residential garden areas that would provide from an acceptable standard of living for potential future occupants and is acceptable in this regard.
- 9.37. The site would be located to the rear of several properties that bound the site to the north and west, and proposals would likely affect these properties to the greatest extent.
- 9.38. The proposed dwellings would be 1½ storey in height with limited openings at first floor level and would not result in any significant opportunities for loss of privacy through over-looking; boundary treatments would further assist in maintaining acceptable standards of amenity.
- 9.39. The submitted plans demonstrate appropriate separation distances (>20m) between the existing properties and the 1½ storey elements of the proposed dwellings to ensure that existing residential amenity would not be significantly affected in terms of loss light, outlook or over-domination. The proposals are therefore considered acceptable in this regard.
- 9.40. Concerns have been raised in third party comments with regards to detrimental impacts on amenity through noise associated with the proposed development. Any noise would be residential in its nature and whilst intensified by the addition of three additional dwellings would not be significantly different in nature than that experienced from relative neighbouring properties. Whilst comments in relation to noise emanating from the use of the proposed gravel driveway are duly noted, it is considered that any such noise arising from cars crossing the gravel is not likely to result in such significant noise levels that would be to the detriment of residential amenity that would warrant a reason to refuse the application on such grounds.

Conclusion

- 9.41. Given its scale and nature, and the context of the site, it is considered that the proposal would not likely result in any significant detrimental impacts on the residential amenity of surrounding properties whilst providing an acceptable standard of living environment for potential future occupants. The proposals are therefore considered acceptable in terms of residential amenity.

Highway safety

Policy Context

- 9.42. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will

vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

9.43. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.44. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*.

Assessment

9.45. The LHA has assessed the application and, following the submission of additional information in respect of passing vehicle speeds on the adjacent highways and in terms of demonstrating appropriate vision splays at the access, raises no objections subject to conditions (variously relating to the specific construction, surfacing, layout and drainage details of the proposed access road, parking and manoeuvring areas; the vision splays at the access point, and a Construction Traffic Management Plan). Officers agree with this assessment and consider that these details could be secured through appropriate conditions attached to any such permission to ensure that the proposed development would be acceptable in terms of highway safety.

9.46. Concerns are raised by the parish and by local residents in respect of highway safety. The adjacent highway (School Lane) from which access would be taken is narrow largely single carriageway and, in some places, does not allow for two vehicles to pass. There is also no pedestrian footpath.

9.47. The LHA has considered these issues and notes that this is an existing situation that is not a result of the proposed development. Pedestrians and vehicles both use the existing lane and are already required to have due regard for each other. The submitted speed survey demonstrates that typical vehicle speeds are relatively low (<20mph) on the adjacent roads/lanes and the LHA is satisfied that appropriate visibility at the access can be satisfactorily achieved.

9.48. Para. 109 of the NPPF advises that: *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’*. Whilst the proposals would potentially intensify the use of School Lane, the site could also be access via Crow Lane and Foxden Way, and it is considered that the additional traffic generated by the proposed development of three additional dwellings would not so significant that it would result in a severe impact on the local highway network of safety.

9.49. Concerns are also raised in respect of large vehicles attending the site particularly in relation to construction vehicles. In this respect the LHA propose a CTMP is secured by way condition to ensure that appropriate traffic management can be achieved during the construction phase of any such development.

Conclusion

- 9.50. The proposals would not have any adverse impact upon local highway safety. As such it is considered that the proposals would be broadly consistent with the above-mentioned policies and acceptable in terms of highway safety.

Ecology Impact

Legislative context

- 9.51. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.52. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.53. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.54. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.55. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.56. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.57. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.58. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.59. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.60. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.61. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.62. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.63. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it is likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.64. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site whilst not considered to contain any significant features of ecological and biodiversity value there are a number of mature trees and hedgerows that bound the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers and hedgehogs.

9.65. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.66. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.67. The application is supported by a detailed Ecology Walkover Survey prepared by EDP which concluded that the site is of inherently low intrinsic ecological value such that development of the site is unlikely to result in significant loss of biodiversity.

9.68. The Council's Ecologist has assessed the submitted report and is satisfied with the detail of the report and its conclusions considering the detail within the report to be sufficient to ensure biodiversity is protected (with an additional 3-month pre-commencement protected species check) and to ensure an overall net gain on site. However, the Ecologist considers it both necessary and appropriate to secure further information by way conditions with regards to potential biodiversity enhancement measures to ensure a net gain in biodiversity opportunities at the site, in accordance with Policy ESD10 and national guidance. Your officers agree with this assessment.

Conclusion

9.69. Officers are satisfied, on the basis of the advice from the Council's Ecologist and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Flooding Risk and Drainage

Policy Context

- 9.70. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.71. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.72. Notwithstanding third-party comments suggesting that the existing field is susceptible to flooding, the Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal. Surrounding properties have existing surface water drainage provision and officers are not aware of any significant flooding issues within the vicinity of the site.
- 9.73. Whilst no surface water drainage details are included within the current submission it is considered that an appropriate drainage strategy, embracing SUDs principles, could be achieved and such details could be secured by way of appropriate conditions attached to any such permission; and that the lack of this detail does not warrant a reason to refuse the application.
- 9.74. Concerns are raised in respect of the capacity within the existing sewerage system. Whilst no formal comments have been received from Thames Water, as the relevant water authority, at the time of preparation of this report, it is considered that additional capacity required to support an additional three dwellings is unlikely to be significant. The applicant indicates that sewerage would be disposed of by way of mains sewer. This would require the permission of Thames Water to connect to the existing sewerage system, which is presumed would not be granted if there was a capacity issue. Should such a situation then arise then the developer would then need to look at an alternative on-site solution such as a Klargester Biodisc system. As such this is not considered a reason to withhold planning permission.

Conclusion

- 9.75. Officers consider that subject to appropriate conditions securing an appropriate surface water drainage scheme for the site, based on sustainable drainage principles, that the proposals would provide appropriate drainage and would meet the requirements of policies ESD6 and ESD7 of the CLP 2031 and be considered acceptable in terms of flood-risk and drainage.

Other matters:

- 9.76. Matters relating to land ownership issues have been raised in third party comments. Whilst the applicant has provided further information in respect of title deeds confirming ownership of the development site, land ownership is not a material planning consideration. Such matters do not constitute a reason to refuse planning permission.
- 9.77. The Parish Council makes comment with regard to the proposed offer of additional land for the potential future purposes as a community orchard. This area of land sits outside of the application site and during the application plans were amended by the applicant removing reference to the community orchard. The proposed offer of this

land is not considered necessary to make the scheme acceptable in planning terms and as such has not been considered in the context of the application. The Parish Council would need to take this matter up directly with the applicant/developer outside of planning if they wish to pursue this offer of land for a community use.

Human Rights and Equalities

- 9.78. The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR"). In making any decisions, Cherwell District Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.79. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

- 9.80. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of neighbour letter and site notice giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. In addition, third parties were invited to the public meeting of the Planning Committee and had the opportunity to speak. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

Article 8 and Article 1 of the First Protocol

- 9.81. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.
- 9.82. Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

Duty under The Equalities Act 2010

- 9.83. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

- 9.84. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.
- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.
- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. The site is unallocated in the adopted CLP 2031. Great Bourton is designated a Category B Village under Policy Villages 1 of the CLP 2031 and as such is suitable for minor development within its built-up limits. Given the context of the site, its relationship with surrounding residential development, and a recent appeal decision on an adjacent site, officers consider on very fine balance that the proposal can be considered acceptable in principle against the requirements of Policy Villages 1.
- 10.5. The proposals are considered acceptable in terms of highway safety and neighbour amenity. The siting, scale and design of the proposed new dwellings is considered appropriate for the edge of rural village location. It is further considered that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. It is acknowledged that the proposals would result in the loss of a greenfield site and agricultural land, but that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme sustaining the edge of village setting.
- 10.6. The development would make a contribution to housing delivery and there would also be some economic benefit in the support of construction jobs. Against this must be balanced the harm through development of an agricultural field.
- 10.7. Given the above assessment and in light of current guiding national and local policy set out in the report, your officers consider that the harm would not significant and demonstrably outweigh the benefits and that the proposal would amount to sustainable development and is therefore recommended for approval.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)

CONDITIONS:

Time Limit

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.

Compliance with Plans

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, Ecology Walkover Survey prepared by EDP and drawings numbered WG843 001B, WG843 002C, WG843 003g, WG843 004A, WG843 005C, WG843 006, WG843 007B, WG843 008A and 502.0067.001A.

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.

Transport

3. Prior to the commencement of the development hereby approved, full specification details of the access road, parking and manoeuvring areas, including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first use of the access road the development shall be constructed in accordance with the approved details.

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.

4. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details and the development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

5. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

Materials:

6. Prior to the commencement of the development hereby approved above slab level, a brick sample panel, to demonstrate brick type, colour, texture, face bond and pointing (minimum 1sqm in size) shall be constructed on site, inspected and approved in writing by the Local Planning Authority. The external walls of the development shall not be constructed other than in strict accordance with the

approved brick sample panel and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved above slab level, samples 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. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved above slab level, samples of the timber cladding to be used in the construction of the walls of the proposed garages shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Landscaping

9. Notwithstanding the details submitted, prior to the commencement of the development hereby approved above slab level, a landscaping scheme 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, crossing points and steps.

(d) details of all boundary treatments.

Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out before the first occupation of the development and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, 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 building(s) 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 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. The existing hedgerow along the western boundary of the site shall be retained and properly maintained at a height of not less than 3m metres, and if any hedgerow plant dies within five years from the completion of the development it shall be replaced and shall thereafter be properly maintained in accordance with this condition.

Reason: In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Ecology and Biodiversity

12. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm 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 mitigation scheme.

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 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in strict 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 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of

the scheme.

14. Notwithstanding the information submitted, prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity opportunities at the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall not be carried out other than in accordance with the approved details including the timeframes set out therein, and shall be retained as such thereafter.

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 Part 1 and Government guidance contained within the National Planning Policy Framework.

Drainage

15. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water drainage of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the scheme shall be implemented.

Reason: To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ENV1 of the Cherwell Local Plan 1996, Policy ESD7 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. 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 Environmental Protection Team Leader for further advice on this matter.
3. The County Archaeologist has indicated that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County

Archaeologist in order that he may make a site visit or otherwise advise as necessary.

4. In respect of condition 4 the CTMP should look to detail:

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

5. 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 3900.

6. 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.

7. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

CASE OFFICER: Bob Neville

TEL: 01295 221875