

Case Officer: Gemma Magnuson

Applicant: Punch Partnerships (PML) Limited

Proposal: Erection of a two-bedroom bungalow to the rear of the existing public house (Sui Generis), utilising existing access and associated parking and landscaping, and the small breakthrough in the boundary wall to facilitate a pedestrian entrance. (resubmission of 21/01022/F)

Ward: Launton And Otmoor

Councillors: Cllr Hallchurch MBE, Cllr Holland and Cllr Hughes

Reason for Referral: Called in by Cllr David Hughes for the following reasons: A valued asset of the village that is of high public interest

Expiry Date: 3 December 2021

Committee Date: 2 December 2021

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION SUBJECT TO CONDITIONS FOLLOWING EXPIRY OF CONSULATION PERIOD

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site consists of part of the garden associated with The Ben Jonson Inn, currently occupied by play equipment that is understood to have been erected as a memorial.
- 1.2. The site is enclosed on three sides by dense vegetation, including some trees, with the northern boundary abutting Westlands Avenue also being marked by a curtilage listed stone wall. An electricity substation is positioned adjacent to the site to the west, with bungalow dwelling and associated flat roofed garage at 1 Westlands Avenue beyond. One and a half storey Tollbrook is positioned across the road from the site to the north. The car park and outbuilding associated with the pub are positioned to the south of the site, with remainder of the pub garden and associated outdoor seating situated to the east.

2. CONSTRAINTS

- 2.1. The Ben Jonson Inn itself is a Grade II listed building. A former stable, now outhouse, situated to the south-west of The Ben Jonson Inn is also a Grade II listed building. Other Grade II listed buildings are positioned in close proximity to the site, including Oxford House to the south-east, and The Cottages across the road to the north-east. The site lies within the designated Weston-on-the-Green Conservation Area and has been identified as being of archaeological interest. The land is potentially contaminated. The Weston Fen Site of Special Scientific Interest is within 2km of the site and a protected species, the west european hedgehog has been identified in the area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Planning permission is sought for the erection of a detached two bedroom bungalow dwelling together with associated works to include landscaping, the erection of

boundary treatment and the creation of an off-street parking area. A section of the curtilage listed stone wall along the northern boundary would also be removed to create a pedestrian access onto Westlands Avenue. Vehicular access to the site would be via the existing public house car park.

- 3.2. The proposed dwelling would be single storey and form a rough 'T' shaped footprint with central gabled projection off the rear elevation. Construction materials would consist of natural limestone walls with slate tile roof. Openings would have painted timber frames, with the exception of the front door which would be composite. Conservation grade rooflights would be installed within the rear gabled projection.
- 3.3. Some existing trees would be removed to facilitate the proposal, with low level landscaping replacing the vegetation alongside the northern boundary. The existing curtilage listed stone wall would remain in place, with the exception of the 940mm width to be removed and replaced with a post and rail style pedestrian gate. A post and rail fence would divide the curtilage of the proposed dwelling from the pub garden. The remaining boundaries would be marked by a close boarded fence.
- 3.4. A bin and bicycle store would be positioned between the dwelling and the eastern boundary. An electric vehicle charging point would be installed within the parking area. Three integral bird nesting boxes would be installed within the dwelling and hedgehog highways would be provided within boundary fencing.
- 3.5. An existing play area, which was constructed in a memorial of a local child, would be relocated within the pub garden to the west as part of the works. The application for planning permission for the relocation play area is being considered alongside this application (see 21/03591/F). An application for listed building consent for the removal of the 940mm section of curtilage listed stone wall along the northern boundary of the site is also being considered alongside the current application (see 21/02473/LB).

4. RELEVANT PLANNING HISTORY

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

Application: 20/02180/F

Refused - 6 November 2020

Erection of a four bedroom chalet bungalow (C3) to the rear of the existing public house (A4), with a new access created off Westlands Avenue, and associated parking and landscaping

Application: 20/03406/F

Refused - 18 February 2021

Erection of a two-bedroom bungalow (C3) to the rear of the existing public house (Sui Generis), with a new access created off Westlands Avenue following the partial demolition of the boundary wall, and associated parking and landscaping.

Application: 20/03407/LB

Refused 18 February 2021

Partial demolition of the boundary wall to create access for new dwelling proposed under 20/03406/F

Application: 21/01022/F

Refused 18 May 2021

Erection of a two-bedroom bungalow to the rear of the existing public house (Sui Generis), utilising existing access and associated parking and landscaping, and the small breakthrough in the boundary wall to facilitate a pedestrian entrance.

Application: 21/01023/LB

Refused 18 May 2021

Partial demolition of the boundary wall to create pedestrian entrance

Application: 21/02473/LB

Undetermined at time of writing

Breakthrough in boundary wall to facilitate a pedestrian entrance (resubmission of 21/01023/LB)

Application: 21/03591/F

Undetermined at time of writing

Relocation of children's play equipment/memorial garden

- 4.2. The site has been the subject of a number of recent applications for a similar proposal, all of which have been refused. This detailed history has been summarised below:

20/02180/F

- 4.3. Planning permission was sought for a chalet bungalow style dwelling upon the site with front and rear dormer windows serving first floor accommodation. Construction materials would consist of red brick and rendered walls with a slate roof. A larger section of the curtilage listed stone wall on the northern boundary would be removed when compared to the current scheme, providing vehicular access to three off-street parking spaces. A larger area of pub garden would also have been used for the development. An objection was received from the Conservation Officer. The application was subsequently refused on the following grounds:

1. *By virtue of its unsympathetic design and its siting in an undeveloped gap and the loss of the curtilage listed boundary wall, the proposed dwelling would cause harm to the significance of the Weston on the Green Conservation Area and the Grade II listed Ben Jonson public house as well as adversely affecting the visual amenities of the locality. The harm to the heritage assets, which is less than substantial, would not be outweighed by public benefits. Thus, the proposal is contrary to Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C23, C28, C30 and C33 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*
2. *In the absence of clear evidence that the loss of a large area of the garden for the public house would not impact on the future of the business, the proposed development would cause harm to the viability of the public house and may result in the loss of a village service. The proposal is therefore contrary to Saved Policy S29 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.*

20/03406/F & 20/03407/LB

- 4.4. Planning permission and listed building consent were sought for the erection of a two bedroom bungalow upon a reduced area of the pub garden. The dwelling would have an 'L' shaped footprint, with limestone walls and a grey tiled roof. Vehicular access would continue to be taken from Westland Avenue, although the width of the section of wall to be removed is reduced to the width of one parking space with a tandem parking arrangement in the site. A pedestrian gate would also be installed requiring the removal of a second, smaller section of the wall. An objection was received from the Conservation Officer. The applications were subsequently refused on the following grounds:

F. *By virtue of its siting in an undeveloped gap and the loss of sections of the curtilage listed boundary wall, the proposed dwelling would cause harm to the significance of the Weston on the Green Conservation Area and the Grade II listed Ben Jonson public house as well as adversely affecting the visual amenities of the*

locality. The harm to the heritage assets, which is less than substantial, would not be outweighed by public benefits. Thus, the proposal is contrary to Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C23, C28, C30 and C33 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

LB. By virtue of the loss of sections of the curtilage listed boundary wall, the proposed development would cause harm to the significance of the Grade II listed Ben Jonson public house as well as the Weston on the Green Conservation Area. The harm to heritage assets, which is less than substantial, would not be outweighed by public benefits. Thus, the proposal is contrary to saved policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 4.5. Appeals against the above decisions have been submitted and a start date is awaited (see Appeal Ref: APP/C3105/W/21/3278245).

21/01022/F & 21/01023/LB

- 4.6. Planning permission and listed building consent were sought for the erection of a two bedroom bungalow upon the site. The dwelling would have a 'T' shaped footprint, with limestone walls and a grey tiled roof. Vehicular access would now be taken through the pub car park and not through an opening in the curtilage listed stone wall on the northern boundary. A pedestrian access onto Westlands Avenue, in the same position as that currently proposed, remained. An objection was received from OCC Highway Authority due to third party land separating the site and the public highway, and the potential for the parking arrangements to be affected by customer parking and deliveries for the public house. The Conservation Officer had not commented on the scheme at the time of writing the report. The applications were subsequently refused on the following grounds:

F. By virtue of its siting in an undeveloped gap and the loss of a section of the curtilage listed boundary wall, the proposed dwelling would cause harm to the significance of the Weston on the Green Conservation Area and the Grade II listed Ben Jonson public house as well as adversely affecting the visual amenities of the locality. The harm to the heritage assets, which is less than substantial, would not be outweighed by public benefits. Thus, the proposal is contrary to Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C23, C28, C30 and C33 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

The proposed development, by reason of its separation from the highway by a section of third party land, would fail to provide a safe access to the site. The proposed parking could not be guaranteed to remain in perpetuity and the vehicles from the development would park on the nearby highway network. The proposal would therefore result in significant and demonstrable harm to highway safety. As such the proposal is contrary to Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

LB. By virtue of the loss of a section of the curtilage listed boundary wall, the proposed development would cause harm to the significance of the Grade II listed Ben Jonson public house as well as the Weston on the Green Conservation Area. The harm to heritage assets, which is less than substantial, would not be outweighed by public benefits. Thus, the proposal is contrary to saved Policy C18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 4.7. Late comments were received from the Conservation Officer although these were not taken into consideration in the determination of the latest refused applications. The advice given by the Conservation Officer was that, although the harm had been reduced, the proposal was considered to still result in some harm to the heritage assets and therefore the wider benefits of the scheme needed to be weighed against this harm.
- 4.8. The current scheme includes the access to the public highway within the red line application site area, and the relevant notice has been displayed in the Bicester Advertiser as is the process where the current owner of the land is unknown.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **29 November 2021**, by advertisement in the local newspaper expiring **25 November 2021** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments will be **2 December 2021**.
- 6.2. At the time of writing, 15 responses have been received, all objecting to the proposal. Any further comments received will be reported as a late representation. The comments raised by third parties are summarised as follows:
- The development would cause harm to the setting of the Grade II listed Ben Jonson public house.
 - The development would cause harm to the designated Conservation Area
 - The design of the dwelling and choice of construction materials would not relate well to the character of the area.
 - The proposals are contrary to the Neighbourhood Plan.
 - The development would cause harm to local ecology/biodiversity.
 - The applicant could build a larger house on the site in the future.
 - The development would cause harm to highway safety and the access through car park is impractical and result in loss of overflow parking
 - Construction would cause disruption to the business and cause a hazard parking on Westlands Avenue.
 - The development would impact on the viability of the public house due to the reduction in size of the pub garden.
 - The cutting down of trees would affect the privacy of neighbours.
 - The dwelling would result in the loss of a memorial garden/historical green space amenity for the village
 - Wall height inaccurate on plans
 - Archaeological impact
 - Previous reasons for refusal not addressed
 - The pub is currently for sale including the parking spaces, alleged motivation of applicant to strip the asset of as much value as possible before sale goes through, or to enhance sales value of pub
- 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. WESTON ON THE GREEN PARISH COUNCIL: **Object** on the grounds of the dwelling not constituting infilling or acceptable minor development harming the loose-knit character of the village, harm to protected species the West European Hedgehog, inconsistent with local character of Conservation Area and surrounding Grade II listed buildings especially the wall, harm the character of the Conservation Area, contrary to Neighbourhood Plan, loss of amenity garden, access required during building phase and loss of access required to current car park in perpetuity having a detrimental effect upon this historic site and business that is the Ben Jonson Inn, unsatisfactory access that is not owned or controlled by the applicant.
- 7.3. WESTON ON THE GREEN NEIGHBOURHOOD PLAN FORUM: No comments received.

CONSULTEES

- 7.4. OCC ARCHAEOLOGY: **No objection** subject to implementation of an archaeological watching brief with the findings being reported to the Local Planning Authority.
- 7.5. OCC HIGHWAYS: **No objection.**
- 7.6. CDC CONSERVATION: **No objection** subject to conditions relating to materials, joinery details and a method statement for the treatment of the wall.
- 7.7. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions requiring an odour assessment, noise assessment, Construction Environment Management Plan and a system of electrical vehicle charging to serve the dwelling.
- 7.8. CDC ARBORICULTURE: No comments received.
- 7.9. CDC ECOLOGY: 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 20 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 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- BSC1 – District Wide Housing Distribution

- BSC2 – Effective and Efficient Use of Land
- BSC12 – Indoor sport, recreation and community facilities
- SLE4 – Transport and connections
- ESD1 – Mitigating and Adapting to Climate Change
- ESD 3 – Sustainable Construction
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 - The Character of the Built and Historic Environment
- Policy Villages 1 – Village Categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- ENV1 – Environmental pollution
- S29 – Loss of existing village services
- C23 – Retention of features contributing to character or appearance of a conservation area
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- C33 – Protection of important gaps of undeveloped land

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Weston on the Green Neighbourhood Plan (WotGNP) and the following Policies of the Neighbourhood Plan are considered relevant:

- E1 – Development contributing positively to the character of the village
- E2 - Development to preserve and enhance the green infrastructure and the natural environment of the area
- E3 – Development making use of previously developed land
- H2 – Sustainable residential development
- H3 – Contribution to target number of bedrooms
- H4 – Housing type appropriate to local setting, consistent and compatible density
- H5 – Design code and utility consultation
- H7 – New housing designed for needs of older residents
- C4 – Avoid harm to heritage assets, character of village centre, important space, key street scenes and views
- T1 – Parking areas and access routes

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Weston-on-the-Green Conservation Area Appraisal (2009)
- Cherwell Residential Design Guide (2018)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Conservation of Habitats and Species Regulations 2017

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
- Heritage impact and archaeology
- Residential amenity

- Highway safety
- Ecology impact

Principle of Development

Policy Context

- 9.1. The National Planning Policy Framework (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. Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 9.2. Policy PSD1 contained within the CLP 2031 Part 1 echoes the requirements of the NPPF relating to 'sustainable development' and states 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.
- 9.3. In terms of housing supply, while the Written Ministerial Statement of 12th September 2018 stated that relevant and important policies for determining the application may be considered out of date only where a 3-year supply of deliverable sites cannot be demonstrated, a subsequent Written Ministerial Statement of 25th March 2021 has confirmed this 'flexibility' has ended. Therefore, Cherwell District Council will need to demonstrate a 5-year supply of housing. Cherwell District Council can demonstrate a 4.7-year supply of land for housing, and so paragraph 11d of the NPPF applies, meaning the Development Plan policies for housing provision are to be considered out of date, and the presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.4. Policy ESD1 of the CLP 2031 Part 1 states that measures will be taken to mitigate the impact of development on climate change and deliver the goals of sustainable development. This includes distributing housing growth to the most sustainable locations as defined in the Local Plan and delivering development which reduces the need to travel. The local plan has a strong urban focus with large amounts of housing planned at Bicester and Banbury. The policies relating to rural housing growth are therefore more restrained.
- 9.5. Policy Villages 1 of the CLP 2031 Part 1 provides a categorisation of the District's villages based on their relative sustainability. The amount and type of development that could be appropriate in sustainability terms within the built-up limits of a village depends on its categorisation under Policy Villages 1. Weston on the Green is a Category A village where normally minor development, infilling and the conversion of suitable buildings is acceptable as they are the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Infilling is defined at paragraph C.264 of the CLP 2031 Part 1 as the development of a small gap in an otherwise continuous built-up frontage.
- 9.6. Policy H2 of the Weston on the Green Neighbourhood Plan (WotGNP) states that sustainable residential development within the village confines will be permitted for conversion, infilling and minor development, typically but not exclusively less than 10 dwellings, provided that they protect the character of the village and are in accordance with the other policies in the Neighbourhood Plan and Local Planning

Policies. Policy H3 of the WotGNP states that development that makes use of previously developed land will generally be preferred to greenfield locations. Policy H3 of the WotGNP requires housing development to contribute to the overall target of 30% 1-2 bedrooms, 40% 2-3 bedrooms, 25% 3-4 bedrooms and 5% 5-4 bedrooms. Policy H7 of the WotGNP requires new housing to be clearly designed for the needs of residents at or beyond the state pension age; adaptable for wheelchair access with ground level WC and shower where practicable.

- 9.7. The proposed development would consist of the erection of a dwelling upon an area of land within the curtilage of an existing pub, The Ben Jonson Inn. The impact of the development upon this community facility is therefore also a consideration.
- 9.8. Government guidance contained within the NPPF requires the provision of the social, recreation and cultural facilities and services that a community needs, and decisions should plan positively for the provision and use of shared places and community facilities such as public houses. The unnecessary loss of valued facilities and services should be guarded against, particularly where this would reduce the community's ability to meet its day-to-day needs. Further, decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
- 9.9. Policy BSC12 of the CLP 2031 Part 1 states that the Council will encourage the provision of community facilities to enhance the sustainability of communities through the protection and enhancement of the quality of existing facilities.
- 9.10. Saved Policy S29 of the CLP 1996 states that proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted. The supporting text explains that the Council recognises the importance of village services, particularly the local shop and pub, to the local community and will seek to resist the loss of such facilities whenever possible. However, it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term.

Assessment

- 9.11. The application site is positioned within the existing garden associated with The Ben Jonson Inn. The dwelling would be erected in the north-western corner of the garden, with the remainder of land to the east consisting of garden and outdoor seating at The Ben Jonson Inn. The B430 and its wide grassed verge is positioned beyond the pub garden to the east. Bungalow dwelling 1 Westlands Avenue, with intervening electricity substation, is positioned to the west of the site.
- 9.12. Given the location of the site, Officers are of the opinion that the proposed dwelling would not constitute infilling under the definition of the CLP 2031 Part 1. There is no definition of 'infill' within the WotGNP. However, it is considered that the development of this site for one dwelling would constitute minor development within the built-up limits of the village, in accordance with Policy Villages 1 of the CLP 2031 Part 1 and Policy H2 of the WotGNP. The acceptability of the principle of the erection of a dwelling upon the site has never been disputed by Officers as part of all previous related applications.
- 9.13. This proposal would provide an additional dwelling to help towards the Council's supply of housing. At a time when Cherwell cannot demonstrate an appropriate 5-year supply of land for housing, this is additional provision, albeit limited to single dwelling, represents a material consideration weighing in favour of the proposal.
- 9.14. The proposed dwelling would sit upon an area of garden that is currently occupied by children's play equipment for customer use. The loss of part of the outdoor

space associated with the public house raises the issue of the impact of the development upon the future viability of the public house. If the future viability of the public house were to be harmed, the long-term future of this community facility could be jeopardised. The current situation with COVID-19 has served to emphasise the importance of outdoor space to public houses.

- 9.15. The original application seeking planning permission for an erection of a dwelling within the garden of The Ben Jonson Inn (see: 20/02180/F) was refused in part due to the absence of clear evidence that the loss of a large area of the garden from the public house would not impact on the future of the business, and that the proposed development would cause harm to the viability of the public house and may result in the loss of a village service.
- 9.16. As a result, a further application for planning permission was submitted (see: 20/03406/F) that included a reduced site area, to involve the loss of no existing outdoor seating. The applicant considered that the reduced area of garden that would be lost is underutilised, being overgrown and occupied by play equipment that is does not make a material contribution to the public house business. It was also considered that the development of the site would enable further investment into the public house business.
- 9.17. The case put forward as part of the second application was accepted by Officers, concluding that given the reduced site area and the additional information submitted by the agent, it was considered, on balance, that the proposed development would not cause harm to the viability of the public house to an extent that warranted refusal of the application.
- 9.18. A separate application has been made for the relocation of the play area (see 21/03591/F). The outcome of this separate application cannot be pre-determined, and the impacts of any alternative siting of the play area elsewhere within the pub garden and any resultant impacts on the viability of the public house are matters to be considered under 21/03591/F.
- 9.19. The proposed dwelling cannot be constructed without the removal of the play area and memorial garden, and therefore consideration needs to be given as to whether it is necessary to ensure appropriate arrangements are in place to secure the relocation of play equipment before any works could commence, for example by way of Grampian condition. Planning conditions can only be applied to a planning approval where they meet 6 test which include being: necessary; relevant to planning; and reasonable.
- 9.20. This play area is not public facility, it is a facility on private land which primarily provides benefit of the patrons of the public house. This is a sensitive issue as the land is also understood to be a memorial garden but isn't formally recognised as such, for example it isn't identified in the WotGNP. On this basis, and without prejudice to the Council's future assessment of application 21/03591/F, it is not considered that it could be argued as necessary for planning purposes to restrict implementation of any permission issued if this proposal for a dwelling on the same site was found to be acceptable.
- 9.21. In terms of the size of the resultant plot for the public house, Officers previously accepted the reduced site area would not automatically cause harm to the viability of the public house to an extent that warranted refusal of the application. It remains the opinion of Officers that the proposed development would not create clear harm to the long-term viability of the public house that would justify a refusal on this point. .

Conclusion

- 9.22. It is the opinion of Officers that the principle of the erection of a dwelling within the built-up limits of the village, upon an area of garden associated with The Ben Jonson Inn, is considered acceptable in accordance with Government guidance contained within the NPPF, Policies PSD 1, ESD 1, Villages 1 and BSC12 of the CLP 2031 Part 1, saved Policy S29 of the CLP 1996 and Policies H2 and E3 of the WotGNP. Further, the provision of a two bedroomed single storey dwelling would accord with the thrust of Policies H3 and H7 of the WotGNP that seek a larger proportion of 1-2 bedroom dwellings, and dwellings that are suitable for older residents. The provision of an additional dwelling would also make a small contribution the Cherwell's housing land supply.

Design, and impact on the character of the area

Policy Context

- 9.23. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.24. Policy ESD15 of the CLP 2031 Part 1 states that new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards and should respect the historic environment including conservation areas and listed buildings.
- 9.25. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.26. Policy E1 of the WotGNP seeks a positive contribution to the locally distinctive character of the village, conserving important aspects of its setting. Policies H4 and H5 of the WotGNP require development to place additional emphasis of the conservation or enhancements of all heritage assets of the Parish, such that housing type should be appropriate to local setting, and to require compliance with a Design Code (Appendix A). In summary, with regard to new dwellings, the Design Code requires houses to be either directly against a front verge or set behind a boundary wall that delineates the front of the property, porous driveway surfacing, refuse bin storage away from view of the street, external bicycle storage and boundary treatments to reflect the materials found in neighbouring properties, including stone walls and post and rail fencing. Walls should be constructed using coursed rubble limestone and roof pitch to be consistent with the chosen roof covering, although steep pitches are preferred in the Conservation Area. The use of UPVC openings is not acceptable.

Assessment

- 9.27. The application proposes the erection of a detached bungalow dwelling upon an area of pub garden that is currently occupied by play equipment. The northern boundary consists of a stone wall, a section of which would be removed in order to facilitate a pedestrian access. The site is currently bounded on three sides by dense vegetation, including trees, the majority of which would be removed.

- 9.28. The proposed dwelling would be single storey in height and constructed with stone walls and a slate tile roof. The dwelling would front onto Westlands Avenue, with vehicular access and off-street parking to the rear, accessed via the existing pub car park. Westlands Avenue consists of both single and one and a half storey dwellings of contemporary design, appearance and material palette. Immediately opposite the proposed dwelling frontage sits Tollbrook, a one and a half storey dwelling constructed from reconstituted stone, tiled roof and pitched roof render clad dormer windows. Stone walled and thatched roofed Grade II listed buildings The Cottage and Bramble Cottage are positioned to the north-east, although these front onto the B430, with their much altered rear elevations facing towards the west.
- 9.29. A rather unsightly electricity substation with associated, and poorly maintained, close boarded fenced enclosure sits immediately adjacent to the site, with the flat roofed concrete block garage associated with 1 Westlands Avenue situated beyond.
- 9.30. Officers are of the opinion that the design of the proposed dwelling succeeds in representing a sympathetic addition to the curtilage of the public house, making use of traditional materials and appearing as a further outbuilding associated with The Ben Jonson Inn. In addition, the design also relates well to the streetscene within which it would be positioned, being of single storey height and retaining the majority of the existing northern boundary wall.
- 9.31. Whilst trees and vegetation would be removed in order to facilitate the development, the Arboricultural Officer raised no objection to the original scheme and continues to hold this opinion of the current scheme.
- 9.32. The siting of the bin store, bicycle parking and vehicle parking discreetly to the side and rear of the proposed dwelling avoids these ancillary features detracting from the visual amenities of the area, and their final appearance can be controlled via condition.

Conclusion

- 9.33. It is the opinion of Officers that the proposed dwelling and associated features, would constitute good design and would represent a sympathetic addition to the streetscene, that is compatible to both its historic context and the more contemporary appearance of dwellings on Westlands Avenue, in accordance with Government guidance contained within the NPPF, Policy ESD 15 of the CLP 2031 Part 1, saved Policies C28 and C30 of the CLP 1996 and Policy E1 and H4 of the WotGNP.

Heritage Impact and archaeology

Legislative and policy context

- 9.34. The site is within and affects the setting of a Conservation Area, and also affects the setting of Grade II listed building The Ben Jonson Inn and the separately listed stable building to the south, and would involve the removal of a section of curtilage listed wall that marks the northern boundary of The Ben Jonson Inn. The site has also been identified as being of archaeological interest.
- 9.35. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.36. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the*

local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Therefore, significant weight must be given to these matters in the assessment of this planning application.

- 9.37. Conservation Areas and Listed Buildings are designated heritage assets, and the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).* This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.38. With regard to sites of archaeological interest, the NPPF requires developers to submit an appropriate desk-based assessment, and where necessary, a field evaluation. Again, this is echoed in the CLP 2031 Part 1.
- 9.39. Conservation Areas are designated heritage assets, and the NPPF states that: when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 9.40. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 9.41. Policy ESD15 of the CLP 2031 Part 1 requires development to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. Further, development proposals will be required to conserve, sustain and enhance designated and non-designated heritage assets including buildings, features, archaeology, conservation areas and their settings. Proposals for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset.
- 9.42. Saved Policies C28 and C30 of the Cherwell Local Plan 1996 seek a standard of layout, design and external appearance, including the choice of external finish materials, that are sympathetic to the character of the context of the development. In sensitive areas, such as Conservation Areas, development will be required to be of a high standard and the use of traditional local building materials will normally be required.
- 9.43. Saved Policy C23 of the Cherwell local Plan 1996 states that there will be a presumption in favour of retaining buildings, walls, trees or other features which make a positive contribution to the character or appearance of a Conservation Area.
- 9.44. Saved Policy C33 of the Cherwell Local Plan 1996 seeks to preserve a view or feature of recognised amenity or historical value, such as trees of amenity value or the loss of features such as boundary walls where they constitute an important element of an attractive or enclosed streetscape.
- 9.45. Policy C4 of the WotGNP states that development should not harm a heritage asset, character of the village centre or important spaces, key street scenes and views Policies H4 and H5 of the WotGNP require development to place additional

emphasis of the conservation or enhancements of all heritage assets of the Parish, such that housing type should be appropriate to local setting, and to require compliance with the Design Code (Appendix A).

Assessment

- 9.46. The site is positioned just inside the designated Weston On The Green Conservation Area, with the northern and western boundaries of the site itself forming the boundary of the Conservation Area. The site is also within the curtilage of The Ben Jonson Inn that is a Grade II listed building dating from the early/mid 18th Century, and adjacent to the separately Grade II listed stable building to the south. The Ben Jonson Inn occupies a prominent position in the Conservation Area, with the associated garden being considered to contribute to the setting of the listed buildings and the character of the Conservation Area in this location. Whilst there are other Grade II listed buildings situated further afield to the north-east and south, the site is not considered to play an integral role in forming a part of their setting.
- 9.47. The historic significance of the site is considered to be its location and the contribution it makes to the designated Conservation Area, and the setting of the listed buildings within the confines of The Ben Jonson Inn. The site is also considered to be of archaeological interest.
- 9.48. The Weston on the Green Conservation Appraisal places the site within the Farms Character Area and, despite the areas having been occupied by former farms, the land uses are now described as predominantly residential, including agricultural barns or outbuildings that have been converted into residential use. Westlands Avenue is described as modern residential infill development that was constructed mostly in the 1970s, although the former farm buildings in the Farms Character Area give an agricultural character to the area, interspersed with dwellings.
- 9.49. The view into the yard behind The Ben Jonson Inn, taken from the verge on the B430 as opposed to Westlands Avenue, is mentioned as highlighting the other listed buildings that make up the setting of the public house.
- 9.50. The impact of the proposed development upon the designated Conservation Area, the curtilage listed wall and the setting of the listed buildings has remained a concern of Officers dealing with all previous applications relating to the erection of a dwelling upon the site. In summary, the concerns related to the siting of the dwelling within an undeveloped gap, and the loss of sections of curtilage listed boundary wall, both of which were considered to cause harm to the historic significance of the Weston on the Green Conservation Area and the setting of Grade II listed The Ben Jonson Inn. Previously, although the harm was considered to be less than substantial, this was not outweighed by public benefits.
- 9.51. It is important to note that the Officer reports relating to the latest refused applications (see: 21/01022/F & 21/01023/LB) were written without the benefit of advice from the Conservation Officer. The Conservation Officer had later advised that the retention of much of the boundary wall was welcomed, and that the creation of a small pedestrian access was not considered to result in an unacceptable loss of historic fabric or on its own alter the character of the wall in a detrimental way. The Case Officer had instead referred to the previous comments made by the Conservation Officer where a larger section of wall was to be removed.
- 9.52. Given this change in opinion, Officers are of the opinion that this reason for refusal of the application could not be sustained at appeal. The loss of a small section of the wall would not result in a harmful loss of fabric, and the sense of enclosure would be maintained.

- 9.53. The design and siting of the dwelling within an undeveloped gap that had caused concern previously, did however, continue to cause concern to the Conservation Officer as part of the latest refused applications (see: 21/01022/F & 21/01023/LB). Despite the comments not having been available to the Officer at the time of writing their latest reports, the opinion that the development would not sit comfortably within the streetscene, and that a new dwelling here would be detrimental to the character of the Conservation Area, resulting in less than substantial harm to the historic significance of the Conservation Area and the listed buildings through development within their setting, were broadly shared.
- 9.54. Amendments have now been made to the design and siting of the proposed dwelling, resulting in the scheme that is currently under consideration. The dwelling has been designed to appear as an outbuilding within the curtilage of The Ben Jonson Inn, as opposed to attempting to replicate the style of development on Westlands Avenue. The overall width of the dwelling has been reduced and traditional construction materials would now be used. The bin and bicycle store have been repositioned to the side of the dwelling, and the vehicular parking has been moved to the rear. In addition, the fencing immediately adjacent to the remainder of the pub garden would be of post and rail style. Officers are of the opinion that the latest scheme would be sympathetic to its historic context, avoiding any harm to the historic significance of the designated Conservation Area or the listed buildings through development within their setting. Further, the Conservation Officer concludes that no harm would result from the proposed development.
- 9.55. The County Archaeologist has advised that there is the possibility that remains associated with the medieval and post-medieval periods are present within the site, including potential for 'backlot' activity associated with the Ben Jonson. Conditions have been recommended that would secure archaeological monitoring and recording action to be maintained during the period of construction. Findings should then be compiled into an accessible and useable archive, with a full report for publication to be submitted to the Council. It is considered that this would avoid harm to any archaeological deposits that may be present within the site.
- 9.56. If supported, it is considered that a condition removing the permitted development rights for the erection of extensions or outbuildings within the curtilage of the dwelling would enable the impact of future development upon the setting of the listed building and the designated conservation area to be assessed.

Conclusion

- 9.57. The amended scheme avoids any harm to the historic significance of the designated Conservation Area, the curtilage listed wall or the nearby listed buildings through development within their setting, in accordance with Government guidance contained within the NPPF, Policy ESD15 of the CLP 2031 Part 1, saved Policies C23, C28 and C33 of the CLP 1996, and Policies C4 and H4 of the WotGNP.

Residential amenity

Policy Context

- 9.58. Government guidance contained within the NPPF requires development to create places that are safe, inclusive and accessible, promoting health and well-being, and with a high standard of amenity for existing and future users.
- 9.59. Policy ESD15 of the CLP 2031 Part 1 requires all development to consider the amenity of both existing and future development. Saved Policy C30 of the CLP 1996 seeks standards of amenity and privacy acceptable to the Local Planning Authority. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of

the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution, including that caused by traffic generation.

Assessment

- 9.60. The proposed dwelling and associated curtilage would share the eastern and southern boundaries of the site with the public house, and the western boundary with the electricity substation and the curtilage of 1 Westlands Avenue.
- 9.61. Due to the angle at which 1 Westlands Avenue is positioned within its curtilage, and the separating distance with intervening garage, it is considered that no harm would be caused to this neighbour in terms of a loss of amenity. Whilst side facing openings are proposed to face towards this neighbour, as they are at ground level only, the outlook would be impeded by the boundary fence, thus avoiding a significant loss of privacy.
- 9.62. The frontage of the proposed dwelling would look out towards the frontage of Tollbook, the one and a half storey dwelling across the road to the north, although this front-to-front relationship is generally accepted upon the least private elevations that face towards the public domain. It is for the above reasons that Officers consider that the development would not result in a significant loss of amenity or privacy for neighbouring properties.
- 9.63. As the proposed dwelling would share boundaries with the pub garden, and its occupation would be independent of the public house business, the impact of this relationship upon the living amenities of future occupants must also be taken into consideration. The Environmental Health Team has been consulted as part of the application process and no objections have been raised in this regard, although conditions requiring the submission of an odour assessment, noise report and a Construction Environmental Management Plan have been recommended in order to safeguard the living amenities of both the existing neighbours and the occupants of the new dwelling. Officers are of the opinion that the potentially detrimental effects of living adjacent to a public house can be sufficiently addressed via condition, and that harm to the amenities of nearby neighbours can be avoided during the period of construction.
- 9.64. Addressing any potentially detrimental effects arising from the proximity of the public house is also imperative to avoid future nuisance complaints that could jeopardise the future viability of this important community facility.

Conclusion

- 9.65. The proposed development would not result in a significant loss of amenity or privacy for neighbouring properties and would provide acceptable standards of amenity and privacy for the future occupants of the dwelling, thus avoiding future nuisance complaints regarding the proximity of the public house use, in accordance with Government guidance contained within the NPPF, Policy ESD15 of the CLP 2031 Part 1 and saved Policy C30 of the CLP 1996.

Highway safety

Policy context

- 9.66. Government guidance contained within the NPPF seeks to achieve safe and suitable access to sites for all users and requires development to 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.

- 9.67. ESD15 of the Cherwell Local Plan 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 echoes this, with all development where it is reasonable to do so, being required to facilitate the fullest possible use of sustainable modes of transport including walking and cycling.
- 9.68. Policy T1 of the WotGNP seeks parking areas and access routes to new development that are designed in a manner in keeping with the local area with regard to scale, materials, splays and signage, to be consistent with the Design Code (Appendix A) and should not result in a net loss to biodiversity or green space.

Assessment

- 9.69. The current and latest refused applications (see: 21/01022/F & 21/01023/LB) indicate vehicular access to the dwelling being taken through the existing pub car park. This amendment was made following concern regarding the width of the section of curtilage listed wall along the northern boundary that would need to be removed to facilitate vehicular access from Westlands Avenue.
- 9.70. The reasons for refusing 21/01022/F included the failure to provide safe access to the site by reason of the separation of the site from the public highway by a section of third party land. In addition, it was considered that the proposed parking could not be guaranteed to remain in perpetuity, with vehicles from the development then needing to park on the nearby highway network.
- 9.71. The current application has sought to overcome the reason for refusal, through the inclusion of the third party land within the red line in order to connect the development with the highway network. The required publicity for the inclusion of land within the red line where the owner is unknown has been undertaken through the publication of a notice in the Bicester Advertiser.
- 9.72. The Highway Authority has advised that the inclusion of the intervening land within the red line has overcome their previous concerns, ensuring that the vehicular access would be available to the proposed dwelling. The Highway Authority consider that the proposal is unlikely to have any adverse impact upon the local highway network from a traffic and safety point of view and offer no objection to the scheme.
- 9.73. Officer's share the opinion of the Highway Authority in that the amended red line area has overcome the concerns with the previous application, and that the development would not result in harm to highway safety.
- 9.74. Bicycle parking would also be provided within the curtilage of the dwelling, safe pedestrian access would be taken from Westlands Avenue and an electric vehicle charging point would be installed.

Conclusion

- 9.75. Vehicular access to the site would be secured and more sustainable modes of transport are supported, avoiding any adverse impact upon the local highway network, in accordance with Government guidance contained within the NPPF, Policies SLE4 and ESD15 of the CLP 2031 Part 1 and Policy T1 of the WotGNP.

Ecology Impact

Legislative context

- 9.76. 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.
- 9.77. 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.
- 9.78. 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.
- 9.79. 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.
- 9.80. 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

- 9.81. 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.

- 9.82. Paragraph 180 states that when determining planning applications, local planning authorities 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.
- 9.83. Paragraph 185 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.
- 9.84. Policy ESD10 of the CLP 2031 Part 1 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.
- 9.85. 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.
- 9.86. The Planning Practice Guidance dated 2014 postdates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities 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.
- 9.87. Policy E2 of the WotGNP requires development to preserve and enhance the green infrastructure and natural environment of the area.

Assessment

- 9.88. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's 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 LPA's 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')
- 9.89. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists of a well-managed, closely mown lawn and play equipment upon a bark chip surfacing. Fencing, a stone wall, and

vegetation and trees, mark the boundaries. Some of the trees are proposed for removal as part of the works, although the Arboricultural Implications Assessment and Method Statement includes the seeking of advice regarding the potential for the trees to be used by protected species prior to their removal. The play equipment would be removed, although there are no buildings to be removed or altered as part of the proposed development. The Ecology Officer has not provided any comments on the current scheme at the time of writing, or on the previous scheme, and it must therefore be assumed that no objections are raised.

- 9.90. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative reminding the applicant of their duty to protected species shall be included on the decision notice and is considered sufficient to address the risk of any residual harm.
- 9.91. The west european hedgehog, is not a species that is protected by The Conservation of Habitats and Species Regulations 2017. However, a number of hedgehog highways would be installed within boundary fencing to allow access for this species if they so desire. A note could also be included to ensure that care is taken removing dense vegetation or piles of logs/leaves using hand methods only, and the provision of escape routes from any deep excavations, in order to ensure that hedgehogs are not harmed during development. Three integral bird nesting boxes would also be installed within the dwelling as part of the scheme.

Conclusion

- 9.92. Protected species and their habitat are unlikely to be harmed as a result of the development, in accordance with Government guidance contained within the NPPF, Policy ESD10 of the CLP 2031 Part 1 and Policy E2 of the WotGNP.

Sustainability

Policy Context

- 9.93. Government guidance within the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. It states that new development should be planned for in ways that: a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards. The NPPF continues by stating, amongst other things, that in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.
- 9.94. Policy ESD 1 of the CLP 2015 Part 1 states that measures will be taken to mitigate the impact of development within the District on climate change, including but not limited to, designing developments to reduce carbon emissions and use resources more efficiently, including water.
- 9.95. Policy ESD 3 of the CLP 2015 Part 1 covers the issue of sustainable construction and states amongst other things that all new residential development will be

expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy. The Policy continues by stating that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. Further stating that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to minimising both energy demands and energy loss, maximising passive solar lighting and natural ventilation, maximising resource efficiency, incorporating the use of recycled and energy efficient materials, incorporating the use of locally sourced building materials, reducing waste and pollution and making adequate provision for the recycling of waste, making use of sustainable drainage methods, reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.

Assessment

- 9.96. The new dwelling would be located in a north-south orientation, with the open plan living room, kitchen and dining room served by a pair of doors and rooflights, allowing natural light during the day from the south. As a new build the development would need to comply with the current building regulations which will ensure that the development would be built to a high standard of sustainable build. Notwithstanding this, if supported, it is considered that a condition should be added to ensure that the development has a higher level of water efficiency than required in the Building Regulations as required under Policy ESD 3.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The principle of the erection of a dwelling within this Category A village is considered acceptable. It has not been demonstrated that the loss of a section of garden associated with The Ben Jonson Inn would impact upon the long-term viability of this important community facility. The development would not harm the historic significance of the designated Conservation Area, the curtilage listed wall or nearby listed buildings through development within their setting. Further, harm would not be caused to the visual amenities of the area, the amenity and privacy currently enjoyed by neighbouring properties and the living amenities or privacy that would be enjoyed by future occupants of the dwelling. In addition, the development would not result in harm to highway safety, or protected species or their habitat.
- 10.2. The development would deliver social benefits through contribution to the District's housing land supply, albeit minor, whilst avoiding harm to the economic and environmental dimensions of sustainable development.
- 10.3. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, INCLUDING THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY), SUBJECT TO NO NEW COMMENTS

**BEING RECEIVED AT THE CLOSE OF THE PUBLIC CONSULTATION PROCESS
ON THE 2 DECEMBER 2021 UNLESS IN THE VIEW OF THE ASSISTANT
DIRECTOR ANY COMMENTS RECEIVED DO NOT RAISE NEW MATERIAL
PLANNING ISSUES**

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: Planning, Design and Access Statement Ref: 00151, EcoUrban Arboricultural Implications Assessment and Method Statement ref: 201271-AIA3, TPA Transport Planning Associates Transport Statement ref: 2005-011/TS/03, Roper-Pressdee Heritage Ltd. Heritage Statement Drawing No's: 20.02 Rev. D, 10.00 Rev. J, 10.01 Rev. G, 10.03 Rev. D, 10.04 Rev. H, 00.06 Rev.C.

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.

Archaeological WSI

3. Prior to any groundworks associated with the development hereby approved, the applicant, or their agents or successors in title, shall be responsible for organising and implementing an archaeological watching brief, to be maintained during the period of construction/during any groundworks taking place on the site. The watching brief shall be carried out by a professional archaeological organisation in accordance with a Written Scheme of Investigation that has first been approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

Archaeological watching brief and report of findings

4. Following the approval of the Written Scheme of Investigation referred to in condition 3, no development shall commence on site without the appointed archaeologist being present. Once the watching brief has been completed its findings shall be reported to the Local Planning Authority, as agreed in the Written Scheme of Investigation, including 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 within two years of the completion of the archaeological fieldwork.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

Construction Environmental Method Statement

5. No works of demolition or groundworks shall take place upon the site until a

Construction Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:

- i. The parking of vehicles of site operatives and visitors;
- ii. The routeing of HGVs to and from the site;
- iii. Loading and unloading of plant and materials;
- iv. Storage of plant and materials used in constructing the development;
- v. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi. Wheel washing facilities/ road sweeping;
- vii. Measures to control the emission of dust and dirt during construction;
- viii. A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- ix. Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason - To ensure the environment is protected during construction in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Stone sample panel

6. Prior to the commencement of the construction of the dwelling hereby approved above slab level, a stone sample panel (minimum 1m² in size) shall be constructed on site which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the dwelling 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 comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, 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.

Slate tile sample

7. Prior to the commencement of the construction of the dwelling hereby approved above slab level, a sample of the slate tile to be used on the roof of the dwelling shall be made available for inspection on site and approved in writing by the Local Planning Authority. Thereafter, the roof of the dwelling shall be constructed in accordance with the approved slate tile sample.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, 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.

Openings

8. Prior to the installation of any windows, doors or rooflights hereby approved, full details of the windows, doors and rooflights at a scale of 1:20 including a cross section and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The openings shall be installed in accordance with the approved details and retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood

Plan, 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.

Bin and bicycle store details

9. Prior to the first occupation of the dwelling hereby approved, full design details including colour/finish of the bin and bicycle store shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the bin and bicycle store shall be erected in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, 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.

Boundary enclosure details and hedgehog highways

10. Prior to the first occupation of the dwelling hereby approved, full details of the enclosures along all boundaries of the site, to include details of hedgehog highways and any associated signage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the dwelling hereby approved, the approved means of enclosure and hedgehog highways shall be erected and installed in accordance with the approved details and retained and maintained in situ at all times.

Reason - To ensure the satisfactory appearance of the completed development, to ensure that the development does not cause harm to any protected species or their habitats, and to comply with Policies E1, E2, H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, Policies ESD 10 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.

Odour assessment

11. Prior to the first occupation of the dwelling hereby approved, an odour assessment of the catering plant associated with The Ben Jonson Inn shall be undertaken, with the findings, together with confirmation of the completion of any identified remedial works and a future maintenance plan for the catering plant, being submitted to and approved in writing by the Local Planning Authority. Thereafter, the catering plant shall be maintained in accordance with the approved maintenance plan.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Noise assessment

12. Prior to the commence of the dwelling hereby approved above slab level, a report shall be submitted to and approved in writing by the Local Planning Authority that confirms that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels and that identifies all noise sources at the adjacent The Ben Jonson Inn and assess them in accordance with the requirements of BS4142. Thereafter, and prior to the first occupation of the dwelling hereby approved, the dwelling shall be insulated and maintained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive

levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Water efficiency

13. Prior to the first occupation of the dwelling hereby approved, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason - Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

Pedestrian gate details

14. Prior to the installation of the pedestrian gate in the northern boundary hereby approved, full design details to include colour/finish shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the pedestrian gate shall be installed in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, 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.

Making good of wall

15. Following demolition of the section of stone wall along the northern boundary hereby approved, the remaining element of wall shall be made good with any remedial stonework being carried out in natural stone of the same type, texture, colour and appearance as the stone on the existing stone wall, and shall be laid, dressed and coursed to match that of the existing stone wall.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, 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.

PD removed – Extensions

16. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling(s) shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling(s), without the prior express planning consent of the Local Planning Authority.

Reason – To ensure and retain the satisfactory appearance of the completed development and to comply with Policies H2, H4 and C4 of the Weston On The Green Neighbourhood Plan, 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.

Access to remain in perpetuity

17. The vehicular access to the dwelling hereby approved shall be kept free of obstructions at all times and used only for the specified purpose.

Reason - In the interests of highway safety, to ensure a proper standard of development and to comply with Government guidance contained within the National Planning Policy Framework.

Notes

1. 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.
2. Due to the presence of the west european hedgehog in the vicinity of the site, the applicant is advised to ensure that the removal of dense ground level vegetation, piles of logs, stones or leaves are removed by hand methods only in order to avoid harm to any hedgehogs that may be making use of these features. Ramped or stepped access from any deep excavations should also be provided to enable hedgehogs to exit the excavated areas if required.
3. 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