



**TOWN AND COUNTRY PLANNING ACT 1990**  
**PLANNING STATEMENT TO ACCOMPANY AN**  
**APPLICATION FOR:**

*“Full planning permission for the erection of 3 dwellings,  
on land east of The Leys, Adderbury”*

**On behalf of**  
**Mrs B Biggam**  
**November 2019**  
**PF/9614**

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## 1.0 INTRODUCTION

- 1.1 A full planning application was submitted in April 2019 for the erection of three dwellings on behalf of Mrs B Biggam, on land east of The Leys, Adderbury. During the planning application process, Adderbury Parish Council queried the ownership of the existing service road that provides the access to the development. The planning application was subsequently withdrawn. The Title Plan and covering letter that confirms the Applicants ownership of the service road is attached at **Appendix 1**.
- 1.2 Since the withdrawal of the planning application a Tree Protection Order (TPO) was issued to the Applicant. The TPO covered several trees within the Site. The trees covered by the TPO and the impact of the development in terms of the TPO can be found in the Arboricultural Impact Assessment. It is noted that the Proposed Development has no impact on the trees protected by the order.
- 1.3 The original planning application had objections relating to the proposed diversion of the Public Right of Way (PRow) that crosses the Site and from Oxfordshire Highways. The Applicant's agent met with Oxfordshire's Public Rights of Way Officer on Site and agreed the diversion of the PRow. The agreement of the diversion of the PRow by the Council can be found at **Appendix 2**.
- 1.4 Oxfordshire Highway objected on the grounds of safety concerns with the possibility of vehicles giving way to one another and potentially relying upon either road users who are traveling in opposing directions to reverse back to a safe point to allow one user to pass the other safely, with the potential for conflict with pedestrians using the same space as road users. To address this issue the site layout has been amended to include vehicular passing places.
- 1.5 The purpose of this Planning Statement, as an overarching document, is to explain the planning background of the amended proposals for the Local Planning Authority (LPA) and the surrounding community, and to consider the national, regional and local planning policy framework within which the application will be assessed.

1.6 The application description remains:

*'Full planning permission for the construction of 3 dwellings, on land east of The Leys, Adderbury'*

1.7 The application is supported by the following suite of drawings and reports:

**Reports:**

- Design and Access Statement v2
- Landscape and Visual Appraisal 6755.LVA.005.VF
- Ecology - Preliminary Ecological Appraisal 5648 FE PEA 01
- Ecology - Great Crested Newt Assessment 2017-10(04)
- Ecology - Bat survey 2017-10(04)
- Arboricultural Method Statement AA AMS 04
- Arboricultural Impact Assessment AA AIA 02
- Arboriculturally Tree Protection plan AA TPP 04
- Arboriculturally Tree Locations Plan AA TL 01

**Drawings:**

- Site Location Plan PF/9614.01 5392 SLP Rev A
- Site Layout Plan Dwg No. 5392.02 Rev D
- Proposed Floor Plans Plot 1 Dwg No. 5392.03
- Proposed Floor Plans Plot 2 Dwg No. 5392.04
- Proposed Floor Plans Plot 3 Dwg No. 5392.05
- Proposed Elevations Plot 1 - Sheet 1 Dwg No. 5392.06
- Proposed Elevations Plot 1 - Sheet 2 Dwg No. 5392.07
- Proposed Elevations Plot 2 - Sheet 1 Dwg No. 5392.08
- Proposed Elevations Plot 2 - Sheet 2 Dwg No. 5392.09
- Proposed Elevations Plot 3 - Sheet 1 Dwg No. 5392.10
- Proposed Elevations Plot 3 - Sheet 2 Dwg No. 5392.11
- Proposed Roof Plans Dwg No. 5392.12
- Indicative Perspectives - Dwg No. 539213
- Bin Store with Bat Loft Dwg No. 5392
- Tree Constraints Plan Dwg AA-TCP-01

## 2.0 SITE AND SURROUNDINGS

- 2.1 Adderbury is one of Oxfordshire's larger villages lying in the administrative boundary of Cherwell District Council. Adderbury has a population of around 2,400 people living in around 1,200 dwellings. Adderbury lies 3 miles outside of Banbury and 25 miles north of Oxford. The village straddles the Sor Brook, a tributary of the River Cherwell which divides the village into two neighbourhoods, East Adderbury and West Adderbury.
- 2.2 The main A4260 runs north-south through the village connecting it to Banbury to the north and to the south to Kidlington and beyond to Oxford. There are regular bus services to these towns. Kings Sutton station is located 3 miles to the northwest, and Banbury station is 4 miles to the north, providing regular and frequent trains to London, Oxford, Manchester and Birmingham.
- 2.3 The residents of Adderbury have access to a range of everyday facilities and services including; a post office; Adderbury Stores; a range of public houses; library and Primary School. There are several public open spaces for residents to enjoy including, the Lucy Plackett Playing Field and The Lakes nature reserve.
- 2.4 The application site is located to the rear of The Leys in Adderbury and comprises an area of unmanaged scrubland with occasional mature ornamental trees. The Site has a gentle slope west to east. The existing railway corridor to the north of the Site (outside of the Site) comprises of an earth bund with entirely contained views of the Site to the north. The land to the south and west (outside of the Site) gently rises to Horn Hill Road and Berry Hill Road.
- 2.5 The western boundary of the Site is contiguous with the curtilage of the existing dwelling known as Leys House, with Leys Cottage and The Leys road corridor and dwellings beyond. The northern site boundary is defined by a service road running broadly east to west that leads to the sewage treatment works. The eastern boundary extends further into scrubland with occasional mature trees. There is a derelict tennis court adjacent to the southern site boundary adjacent to the side curtilage of the neighbouring dwelling known as Culbone.
- 2.6 The service road runs east-west and links to the access road to the west that in turn connects to The Leys road. The access road serves 2 dwellings, The Leys (access further down the service road) and a bungalow at the northern end of this access road.
- 2.7 The Site's western boundary lies contiguous with Adderbury Conservation Area (CA). A CA is an area of '*special architectural or historic interest, the character of which is desirable to preserve or enhance*'. The

Adderbury CA follows an east-west axis through the village and comprises the historic village core, principally lying along both sides of the High Street, and its setting. The CA identifies 8 distinct areas within the village that have particular defining characteristics.

- 2.8 The Character Area known as The Valley Landscape is a parcel of land that runs to the rear of the built development within the CA and follows the Sor Brook that severs the village east and west. The Valley Landscape to the south includes The Lucy Plackett Playing Field and bounds the dismantled railway landscaped bund. The adjacent recreation ground to the rear of the dismantled railway line bund allows classic views of the Church of St Mary over the open space.
- 2.9 The Street's Character Area includes The Leys, which has linear streets which retain strong building lines, with a mix of modern and historic dwellings. This area has a rural ambience but has elements of suburban character such as wall mounted street lights. The topography creates a distinctive character of varying roof lines. The plots are spacious with large front gardens.
- 2.10 The CA to the south west of Adderbury and the The Leys mainly comprises modern infill dwellings. The Grade II listed Leys Cottage is located on the corner of The Leys.
- 2.11 The CA Appraisal includes a visual analysis which identifies significant features, such as landmarks, important green spaces, and positive views. Important landmarks include the Grade I listed Church of St Mary and the Grade II listed Adderbury House. The important green spaces include the Lucy Plackett Playing Field and green space adjacent to New Road, both contribute to positive views of the Church of St Mary. Other positive views associated with green spaces are the north west view towards Adderbury House and the green spaces at the heart of the village at the cross roads of the High Street and Lake Walk.
- 2.12 There is a disused and overgrown Public Right of Way (PRofW) (101/5) that runs diagonally across the Site that links to PRofW 101/24. The PRofW will be diverted to run parallel with the western boundary of the Site. The link with 101/24 will be retained.
- 2.13 The Site contains a number of Tree Protections Orders (TPO), details of types of tree and location can be found in the Arboricultural Survey.

### **3.0 THE DEVELOPMENT**

- 3.1 The Proposed Development consists of the erection of 3 x 5-bedroom dwellings, each with a double garage. Each dwelling has a separate 'drive' accessed off the adjacent service road. The drive facilitates internal vehicular turning areas and additional visitor car parking.
- 3.2 The dwellings have been carefully located within their plots to ensure that the trees protected by a TPO and others, within the Site can be retained.
- 3.3 The dwelling will take on a contemporary appearance, with Cotswold Stone walls under a tiled roof. Modern building materials and techniques will allow for large glazed areas on the ground floor with single opening side hung windows on the first floor.

### **4.0 PLANNING POLICY CONSIDERATIONS**

- 4.1 This section of the statement identifies the planning policy context in which the application will be assessed. The national context, which includes the implication of the National Planning Policy Framework (NPPF) and other relevant national documents is discussed first, followed by the local planning policy and context.

#### **4.2 National Planning Policy Framework (The Framework)**

- 4.2.1 The National Planning Policy Framework (February 2019) replaces the published Framework in March 2012, and includes minor clarifications to the revised version published in July 2018. The Framework sets out the Government's planning policies for England and how they should be applied.
- 4.2.2 The Framework reaffirms the purpose of the planning system which is to contribute to the achievement of sustainable development; with the objective of sustainable development at the highest level, this being; meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 4.2.3 Section 2 of the Framework refers to the three overarching objectives for achieving sustainable development; these being:

- An economic objective;
- A social objective; and
- An environmental objective.

4.2.4 Paragraph 10 states that to ensure development is pursued in a positive way, at the heart of the Framework is a *presumption in favour of sustainable development*.

4.2.5 Paragraph 11 sets the guidance on how this presumption should be applied in decision making. Where proposals are in accordance within the Development Plan, they should be approved without delay. Where the Plan is silent or out of date planning permission should be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework when taken as a whole”*

4.2.6 Paragraph 15 reaffirms that the planning system should be genuinely plan-led. Succinct and up to-date plans should provide a positive vision for the future, and that strategic policies should set out an overall strategy for the pattern, scale and quality of development and make sufficient provision for housing (including affordable) employment, retail, leisure and other commercial development (paragraph 20).

#### *Delivering a wide choice of high-quality homes*

4.2.7 The Government’s ambition is to boost significantly the supply of housing (paragraph 59). Chapter 12 goes on to state that the creation of high-quality building and places is fundamental to what planning and the development process achieves. Good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities.

4.2.8 Planning policies and decisions should ensure that developments; will add to the overall quality of the area; are visually attractive as a result of good architecture, layout with appropriate and effective landscaping; sympathetic to local character and the landscape setting; establish a strong sense of place; and create places that are safe.

#### *Protecting the Environment*

4.2.9 The Framework includes policies that seek to protect the environment contained in Sections 4: Promoting sustainable transport; 10: Meeting the challenge of Climate Change; 11: Conserving and enhancing the natural environment; and 12: Conserving and enhancing the historic environment.



### *Promoting Healthy Communities*

- 4.2.10 Section 8 of the Framework deals with policies to promote healthy communities and recognises the important role that planning can make in creating social interaction and creating healthy, and inclusive communities. Paragraph 69 encourages *“safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.”*

### *Making Effective Use of Land*

- 4.2.11 Paragraph 117 states that planning policies and decisions should promote an effective use of land in meeting the needs for homes and other uses, whilst safeguarding and improving the environments and ensuring healthy living conditions.
- 4.2.12 Paragraph 122 states that policies and decisions should ensure the efficient use of land, and that developments make optimal use of the potential for each site (paragraph 123). Optimal use should be achieved by the use of minimum densities standards for sites and town centre location that are well served by public transport (bullet point a).
- 4.2.13 Paragraph 123 goes on to state that density standards should seek a significant uplift in the average densities of residential developments within these areas, unless it can be shown that there are strong reasons why this should not be the case.
- 4.2.14 Local authorities should refuse applications where there has been a failure to make the most efficient use of land, taking into account the Framework as a whole.

### 4.3 Local Plan Policies

- 4.3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) states that the determination of planning applications should be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.3.2 In this instance the development plan consists of the saved policies of the Cherwell Local Plan (adopted 1996) and the Cherwell Local Plan 2011-2031 (adopted July 2015). The following planning policies are most relevant to this application.

#### Adopted Local Plan 1996

- C8: Sporadic development;
- C28: Layout, design and external appearance of new development;
- C30: Design Control

The Cherwell Local Plan 2011-2031(Adopted July 2015)

- PSD1: Presumption in Favour of Sustainable Development;
- Villages 1: Village Categorisation;
- ESD 1: Mitigating and Adapting to Climate Change;
- ESD3: Sustainable Construction;
- ESD7: Sustainable Drainage System (SuDS);
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment;
- ESD 1: Conservation Target Areas;
- ES 13: Local Landscape Protection and Enhancement;
- ESD15: The Character of the Built and Historic Environment

Adderbury Neighbourhood Plan (2014-2031) (ANP)

- AD1: Adderbury Settlement Boundary;
- AD2: Green Infrastructure

Other Material Considerations

4.3.3 In this instance the following are other material considerations are relevant to this planning application.

- Planning practice guidance;
- Adderbury Conservation Area Appraisal 2012 (ACAA);
- Cherwell Residential Guide SPD (2018)

## 5.0 PLANNING ASSESSMENT

5.1 This planning issues identified as relevant to this application are:

- Principle of development.
- The Social Objectives of Sustainable Development;  
Requiring Good Design;  
Impact on the Character of the Local Area; and,  
Residential Amenity.
- The Economic Objectives of Sustainable Development
- The Environmental Objectives of Sustainable Development;  
Highway safety;  
Landscape and Visual Impact;  
Heritage – Impact on the Adderbury Conservation Area; and,  
Ecology and Biodiversity

### 5.2 Principle of Development

5.2.1 Policy Village 1 of the CLP 2031 sets out the hierarchy for development within the rural areas and groups villages into three categories (A, B and C). Adderbury is identified as a Category A Village, which are identified as the most sustainable settlements within the rural area of the District based on; population size; number and range of services; accessibility (travel time and distance) of the village to other services and urban areas by private car and public transport; and accessibility in terms of walking and cycling to local employment opportunities.

5.2.2 Policy Villages 2 considers the rural housing allocation and allocates 750 dwellings within the plan period to be delivered within Category A settlements in addition to a rural allowance of 750 windfall sites. The policy does not restrict the proportion of the 750 dwellings that may be built in one village, nor controls the phasing.

- 5.2.3 A Planning Inspector (PI) allowing a recent appeal for 46 dwellings on a site in Bodicote<sup>1</sup> concluded that the 750-figure included in Policy Villages 2 is not a ceiling or a limit, and that the policy requires the delivery of 750 units, and is not just a requirement to grant planning permission for this number **(Appendix 3)**.
- 5.2.4 Paragraph 11 of the Decision Notice confirmed that since March 2014 there had been a delivery rate of 54 dwellings per year from Policy Village 2, which if continued would result in the delivery of 750 homes by 2028, three years before the end of the plan period. The PI concluded at paragraph 13 that it was not realistic to expect that all sites that have planning permission will be delivered, and that the additional 46 dwellings would not lead to a material increase over the figure expected by Policy Villages 2. At the time of the appeal hearing (September 2019) there were only 271 dwellings delivered under Policy Villages 2.
- 5.2.5 The spatial strategy as set out in the CLP directs most growth to the locations within or immediately adjoining Banbury and Bicester. The latest District annual monitoring confirms that 73% of dwellings built or permitted were located in these growth areas, with the remaining 27% being delivered or permitted in the 'rest of the district'. It is considered that the District's spatial strategy is being achieved, and the proposed 3 dwellings will contribute to the housing growth across the rural areas and to Policy Villages 2.
- 5.2.6 The Adderbury Neighbourhood Plan was made in July 2018. Policy AD1: Adderbury Settlement Boundary identifies the settlement boundary. The policy allows infill development, within the settlement boundary, and goes on to state that developments outside the settlement boundary will not be supported unless it is demonstrated that... *'they will enhance or at least not harm, local landscape character'*
- 5.2.7 Policy AD1 further differentiates between developments that could lie outside the settlement but could still be regarded as sustainable, by referencing new homes that would be considered isolated and would not be supported, except in special circumstances as described in paragraph 55 of the Framework. Policy AD1 acknowledges that sites, such as the application site, that lie outside the settlement boundary could still be regarded as sustainable.
- 5.2.8 Policy AD1 is in conflict with Policy Village 1 and Policy Villages 2 of the CLP 2031, and the saved policy H8 of the CLP 1996 only allows development within the built-up area of a settlement. Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that if a policy for an area is in conflict with

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<sup>1</sup> Appeal Ref: APP/C3105/W/19/3222428 Land at Tappers Farm, Oxford Road, Bodicote

another policy in the Development Plan, the conflict must be resolved in favour of the policy which is contained in the latest document to be adopted, approved or published. (PPG Paragraph: 012 Ref ID: 21b-012-20140306). It is considered that ANP policy AD1 will be a primary planning policy in the determination of the principle of development.

5.2.9 The Landscape and Visual Appraisal (LVA) that accompanies this application has concluded that the Proposed Development, alongside a robust landscape strategy, will respond to the localised context and not result in any significant harm to the immediate or wider landscape.

5.2.10 It is considered that the principle of the Proposed Development is acceptable.

### 5.3 The Social Objectives of Sustainable Development

#### *Requiring good design*

5.3.1 The Framework (Section 12) acknowledges that good design is a key aspect of sustainable development. It creates better places in which to live and helps to make development more acceptable to local communities (paragraph 124). Planning policies and decision making should ensure the developments respond to its context, be visually attractive as a result of good architecture, layout and landscaping. These aims are echoed within Local Plan policies ESD 15 of the CLP 2031, CS28 of the CLP 1996 and the adopted Cherwell Residential Guide SPD.

5.3.2 The scale of the Proposed Development reflects the immediate surroundings and sits comfortably beside the larger more modern homes along the southern most part of The Leys. The scale of the plots and ratio of the built-up part of the Site to the undeveloped reflects the housing density of the immediate locality.

5.3.3 The proposed dwellings have a modern architectural style. To ensure that the dwellings respect the village location, they will be constructed of Cotswold stone (facing) under a tiled roof, with timber windows and doors.

5.3.4 The Proposed Development is in accordance with the Framework and policy ESD15 of the Local Plan.

*Impact on the character of the local area.*

- 5.3.5 The immediate locality is rural in character. The most significant contribution to the character of the Site and immediate area are; the trees, the east-west sloping contour of the Site, the steep landscaped incline (outside the Site) and the Site's semi-enclosed feel.
- 5.3.6 An arboricultural report and impact assessment accompanies this application. The survey categorises trees as to their value, with Category A and B being the most valuable, down to G being the least, and U, being of no value. The development necessitates the removal of some trees, these are those that do not contribute to the appearance and character of the area. None of those trees included in the TPO are affected by the Proposed Development.
- 5.3.7 The layout, particularly relating to the position of the built form and the access within the Site has been carefully undertaken, to ensure that all the most valuable trees, (Category A and B) that contribute positively to the character and appearance of the Site are retained.
- 5.3.8 The general clearing up of the Site, the quality of the architectural design and place making will make a positive contribution to the Site and the local area. The Proposed Development is in accordance with the Framework and policy ESD15 of the Local Plan.

*Residential amenity*

- 5.3.9 The nearest residential dwellings are located on the Site's western boundary. The nearest proposed dwelling is offset to the existing and has a separation of 25m. Existing landscaping and trees to the Site's western boundary will be retained and will mitigate the impact of the Proposed Development on the amenity of this neighbour.
- 5.3.10 The Leys terminates to the south in a 'cul de sac' of three dwellings with long rear gardens. The southern boundary of the Site is contiguous with the boundary of the first dwelling, known as Culbone. The nearest proposed dwelling is separated from the existing dwelling by 30m, with the dwelling on Plot 2 separate by 47m. This separation, together with the existing boundary landscaping and trees will mitigate the impact of the proposed development on this neighbour.
- 5.3.11 It is concluded that the Proposed Development will have no adverse impact on the ability of its neighbour to enjoy their properties, and will provide a good standard of amenity for future occupiers. The Proposed development is in accordance with the Framework and policy ESD15 of the Local Plan.

#### 5.4 The Economic Objectives of Sustainable Development

5.4.1 Although it is appreciated that the Proposed Development is small scale, the construction phase of the development will require a range of professional and associated skills, ranging from designers, engineers, construction workers and machine operatives. Employment related to construction works may not necessarily be new jobs but may assist in the continued employment and on-going construction work for local construction companies.

5.4.2 As a result of potential local construction expenditure on materials and other local services such as plant hire, the development will also have an indirect benefit to the wider area, in terms of the supply chain.

#### 5.5 The Environmental Role

##### *Highway safety*

5.5.1 Each dwelling will have its own access from the adjacent Service Road. A turning area within each plot allows safe access and egress in forward gear from each plot to the service road.

5.5.2 Highways objection to the original scheme included a potential safety issue with vehicular movements accessing and egressing the development and potential conflict with pedestrian use. The access road is straight with full vision of vehicle movements entering the Site from The Leys north of the service road (by vehicle egressing each plot) and full vision of vehicle movements egressing each plot (from vehicles entering from The Leys to the north). In all likelihood vehicles egressing from all plots will be able to see if the road ahead is clear and safely access onto The Leys.

5.5.3 In the scenario when vehicles from Plot 2 and 3 egress the Site, and a vehicle is travelling down the service road, and seeking access to Plots 2 and 3, a passing place has been incorporated between plots 2 and 1 to facilitate this. In reality; the very few vehicle trips generated by the development; the low speed of travel; and, the full vision of the service road, will make this scenario very unlikely.

5.5.4 The service road that accesses all plots has a width of 4.5m. The Manual for Streets (page 68) includes the footway widths required for a variety of pedestrian users; taking account of these widths, there is sufficient space for pedestrians to safely walk along the PRow that will be diverted to run parallel with the service road, when a vehicle is travelling along the service road.

5.5.5 The small number of movements generated by the proposed 3 dwellings, and the straightness of the access road with full visibility, means that the Proposed Development will not adversely impact the local highway network. The Proposed Development provides safe vehicle access and egress, and safe pedestrian use of the PRoW

*Landscape and visual impact*

5.5.6 An LVA accompanies this application. The appraisal assesses the principle of residential use of the Site. The appraisal confirms that the internal features of the Site, particularly the urbanising boundary treatments, and the immediate presence of residential development to the west and south, reinforces a settlement fringe character. The edge of settlement locations further reinforces the strong relationship with Adderbury.

5.5.7 The LVA concludes that the sensitively designed plot layout will not introduce new or alien features that do not already exist within the Site or within the locally perceived landscape. The successful integration of the design and retention of significant trees will ensure that the Proposed Development will be viewed within a mature vegetated setting, against the existing settlement edge of Adderbury.

5.5.8 The LVA has assessed the Proposed Development from 6 viewpoints; two (Viewpoints A and B) from within the Site, and four (Viewpoints 1-4) from outside the Site. The appraisal concludes that views from the wider countryside (Viewpoints 4 and 5) from Public Right of Way (PRoW) will be limited, as a result of intervening and the Site's heavy landscaping and vegetation, which further illustrates the enclosed nature of the Site. The mature intervening vegetation and the dismantled railway corridor further illustrates the strong degree of containment for the Site.

5.5.9 The LVA concludes that the residential development of the Site could be successfully integrated into the receiving landscape. Table 1 of the appraisal describes how the Proposed Development responds to the landscape related policy in the ANP. Table 2 of the appraisal describes how the Proposed Development respond to the landscape related policy within the adopted Cherwell Local Plan.

5.5.10 It is considered that the Site is able to be developed for residential use without any adverse harm to the local character of the immediate or wider context of the landscape quality. The Proposed Development is in accordance with the Framework, the adopted Local Plan and Adderbury Neighbourhood Plan policies: ESD 13, ESD 15 and AD1.



### *Ecology and Biodiversity*

- 5.5.11 A Preliminary Ecological Appraisal was undertaken in May 2017 to determine whether the presence of any important habitat or species may be impacted by the Proposed Development. The appraisal identified twelve relatively common habitats to the local area. No rare plants were found and all the species recorded were common and widespread. The Site was considered to be of low to medium wildlife value.
- 5.5.12 There was no evidence of setts or of badger presence, other than a few potential snuffle holes. No further surveys are required. The appraisal identified the potential for badger foraging and commuting on an irregular basis.
- 5.5.13 The only perceivable ecological value of the Site appears to be for bats, nesting birds and Great Crested Newts. Following the recommendation of the appraisal a nocturnal bat survey and a Great Crested Newt survey were undertaken.
- 5.5.14 A presence/absence and population Great Crested Newt survey was undertaken between April and June 2018. Following the survey, a Natural England Great Crested Newt risk assessment was carried out that indicated that without mitigation the Proposed Development could impact the species. Section 5 of the survey identified 'reasonable avoidance measures' that would ensure the maintenance of the favourable conservation status of the Great Crested Newt within the locality.
- 5.5.15 An Aerial Bat Survey was undertaken in November 2017 to evaluate the potential for the trees on the Site to facilitate bat roosts. There was no evidence of bat roosts. It is noted that the tree referenced T5 was not able to be checked for bat roosts. This tree will be retained and appeared to offer low roosting potential. It is concluded that the retained high tree canopy and the unlikely need for pruning, means that if bats are using the tree, they are unlikely to be affected by the proposal. The Proposed Development will have no impact on the bat roost on the Proposed Development Site.
- 5.5.16 Further bat surveys were undertaken in June 2018 and July 2018, which included surveying of a barn, located outside of this application site, that front The Leys road. The combined bat surveys (for the barn and the proposed 3 dwellings) was undertaken as it is proposed to convert the existing barn fronting The Leys to a residential dwelling, which will be subject of a separate planning application. The survey concluded that bat mitigation was required for the loss of bat roosts in the conversion of the barn (should planning permission be granted, through a separate planning application). The mitigation will

take the form of a replacement, permanent, bat loft located within the roof space of the proposed bin store for the proposed new dwellings as shown on the site location plan.

5.5.17 In line with the requirements of the Framework to provide a net biodiversity gain, a number of bat and bird boxes will be erected on the mature trees of the application site. These will include:

- 2 x Schwegler 2F with double front panel;
- 2 x Vincent pro bat boxes;
- 2 x Improved Cavity Bat Box; and,
- 2 x open-fronted nest boxes.

5.5.18 The Proposed Development is in accordance with the Framework, the adopted Local Plan policy ESD10.

*Impact on the Adderbury Conservation Area.*

5.5.19 The application site lies contiguous with the southern boundary of the Adderbury CA. The CA boundary then follows the top of the former dismantled railway bund that is adjacent to the northern boundary of the Site. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area and that great weight should be given to this.

5.5.20 The following elements have been identified to contribute to the character and appearance of the CA:

- Impact upon the Valley Landscape Character Area; the open space, (Lucy Plackett Playing field) adjacent to the dismantled railway bund and the view towards the Church of St Mary.

**Impact:** The Proposed Development being located to the south of the bund and at much lower ground level will have no impact on the openness of the playing field or the view and setting of the Church of St Mary.

- Impact upon The Street Character Area: strong linear streets with strong building lines with a mix of historic and modern building. The Grade II listed Leys Cottage is located on the corner of Leys Road as it sweeps in a southerly direction to the more modern infill properties.

**Impact:** The Proposed Development is separated from The Street Character Area and the listed Leys Cottage by the Leys House. The Proposed Development will have no impact on the features that contribute to the character and appearance of The Street character area.

- 5.5.21 It is considered that the Proposed Development will preserve those elements that contribute to the character and appearance of the Conservation Area.
- 5.5.22 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires decision makers to pay special regard to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses.
- 5.5.23 The nearest Listed Building to the Site is The Leys Cottage fronting The Leys road. The setting of a Listed Building is the surrounding in which the asset is experienced and is not fixed and may change as the asset and its surroundings change. The significance of the asset lies within its architectural history and its setting which includes the prominent view of the building as you travel east, from the junction of Tanners Lane and The Leys.
- 5.5.24 The location to the rear, and the separation of the Proposed Development and the Listed Building means that the Proposed Development will preserve The Leys Cottage and its setting. The Proposed Development is in accordance with the Framework, the adopted Local Plan and Adderbury Neighbourhood Plan policies; ESD15, AD9 and AD11.

## **6.0 CONCLUSION**

- 6.1 This planning application seeks permission to construct 3 dwellings on land to the rear of The Leys in Adderbury. Safe access to the Site will be from an existing service road on the northern boundary of the Site. Each dwelling will have its own driveway to enable safe access and egress.
- 6.2 The distribution of housing growth across the district is in line with the District spatial strategy. The proposed 3 dwellings will contribute to the housing growth across the rural areas and to Policy Villages 2. In line with the Framework, the Proposed Development will assist in boosting the supply of homes and makes efficient use of land.
- 6.3 Alongside a robust landscape strategy, the principle of development of the Site for residential use would be appropriate and would cause no harm to the immediate or wider landscape context.
- 6.4 The Proposed Development will have no impact on the amenity of occupiers of neighbouring properties.
- 6.5 The Proposed Development creates the opportunity to increase the biodiversity value of the Site.

- 6.6 The Proposed Development will preserve the character and appearance of the Adderbury Conservation Area and will not impact the setting of nearby Listed Buildings.
  
- 6.7 The Proposed Development complies with both national and local planning policy.

**The Applicant respectfully requests that Cherwell District Council  
approves the application.**

# **APPENDIX 1**

Title Plan

Our Ref: PC/KWH/BIG00063/0002  
Your Ref:  
Date: 14 November 2019

# bower bailey

## SOLICITORS

Monument House, 31-34 South Bar  
Banbury, Oxfordshire. OX16 9AE  
T: (01295) 265566 F: (01295) 270536  
DX: 24214 Banbury

To Whom it may concern

Dear Sirs,

**Re: Our Client: Mrs Beris Fordyce Biggam**  
**Property: The Leys, Adderbury, Banbury, Oxfordshire OX17 3ES**

I confirm that I act for the above in various matters and that we are instructed to look into the title for her property which she purchased by way of a Conveyance dated 23<sup>rd</sup> July 1965. The investigation was due to a query regarding a track of land that lies within our client's title, as Adderbury Parish Council are of the opinion that this was within their title. We entered into correspondence with the Parish Council to supply a copy of our client's unregistered title and clarified to them that the track concerned was always within our client's ownership and they maintained this. As a result of the investigations we were instructed to submit an application to the Land Registry and confirm that title absolute was awarded to Mrs Biggam under title number ON351440 and a copy of the title and plan is attached hereto.

The track concerned is shown at the northern end of the property by a broken black line. The original Conveyance to Mrs Biggam in 1965 specifically makes reference to this track and says that she takes subject to "a right of way for the Banbury Rural District Council along the northern boundary of Ordnance Survey number 44 for the purposes of access to and egress from the Engine House shown on the said plan". A copy of the plan to the 1965 Conveyance is also attached. The Engine House is shown to the right of the property which is edged red.

I will confirm therefore that the track is totally within our client's title and has been since she acquired the property at The Leys, and she has been in occupation and use of the land including the track throughout. If you need any further information please let us know.

Yours faithfully,



Philip Cooksey Partner  
Bower & Bailey

E: [pcooksey@bowerbailey.co.uk](mailto:pcooksey@bowerbailey.co.uk)  
I: [www.bowerbailey.co.uk](http://www.bowerbailey.co.uk)

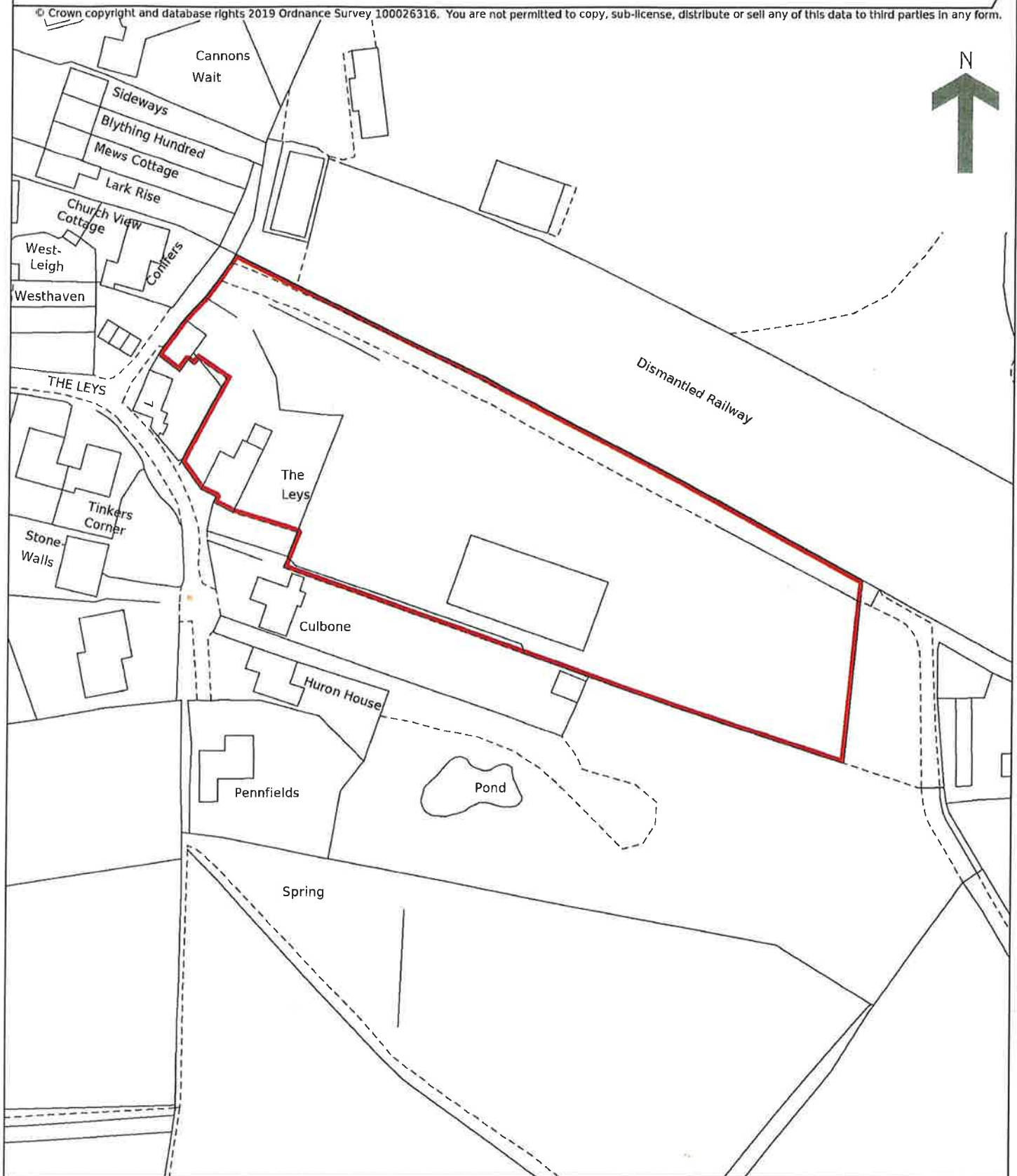
OXFORD | BANBURY | SWINDON | WITNEY

HM Land Registry  
Official copy of  
title plan

Title number **ON351440**  
Ordnance Survey map reference **SP4635SE**  
Scale **1:1250 enlarged from 1:2500**  
Administrative area **Oxfordshire : Cherwell**



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## **APPENDIX 2**

Correspondence from the Public Rights of Way Officer



**From:** [Rutterford, Beth - E&E](#)  
**To:** [Debbie Jones](#)  
**Subject:** RE: 29 04 The Leys, Adderbury - Planning Application 19/00619/F  
**Date:** 01 May 2019 15:28:57

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Dear Debbie,

It was good to meet you on site to discuss the footpath which is going to be affected by your clients development.

The main this discussed included that the diversion proposed is likely to be considered acceptable if the right angle turns are removed. The turns should be curved.

We also agreed that 3m would be an acceptable width, although the greater the width the better. We also agreed that the path would not be fenced in with tall fencing (over head height) as this would create an unpleasant and dark path.

Most importantly we discussed that no work should begin on the construction until the footpath diversion has been completed. I have recommend that you contact Judith Humphreys at Cherwell District Council to discuss the process and timescales involved with applying for a diversion under the Town and Country Planning Act. [Judith.Humphreys@Cherwellandsouthnorthants.gov.uk](mailto:Judith.Humphreys@Cherwellandsouthnorthants.gov.uk).

Also, even with the diversion completed a TTRO (path closure) may be required if other safety measures cannot be put in place during the construction of the development.

The only thing I realised I have not mentioned is that no new gates, stiles or other structures (includes bollards) can be erected across either the current footpath or the proposed route. These structures can only be authorised under S147 for the control of stock and are not needed on this site.

With these measures in place I would be happy to remove my objection to this planning application. Please contact me if you would like any further advice on Public Rights of Way during the course of both the planning and construction of the development.

Kindest regards,

Beth Rutterford - North East  
Countryside Access Officer  
[Beth.Rutterford@Oxfordshire.gov.uk](mailto:Beth.Rutterford@Oxfordshire.gov.uk)  
07586478824

Web-Site: [www.oxfordshire.gov.uk/countryside](http://www.oxfordshire.gov.uk/countryside)  
For Countryside Access issue reporting: <https://camsv.oxfordshire.gov.uk>  
Fix-My-Street: <https://fixmystreet.oxfordshire.gov.uk/>

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**From:** Debbie Jones <Debbie.Jones@framptons-planning.com>  
**Sent:** 29 April 2019 15:05

## **APPENDIX 3**

APP/C3105/W19/3222428

Land at Tappers Farm, Oxford Road, Bodicote OX15 4BN



## Appeal Decision

Hearing Held on 4 September 2019

Site visit made on 4 September 2019

**by M Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

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**Appeal Ref: APP/C3105/W/19/3222428**

**Land at Tappers Farm, Oxford Road, Bodicote OX15 4BN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Hollins Strategic Land LLP against the decision of Cherwell District Council.
  - The application Ref 18/00792/OUT, dated 4 May 2018, was refused by notice dated 31 October 2018.
  - The development proposed is an outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 52 no. dwellings, with associated works and provision of open space.
- 

### Decision

1. The appeal is allowed and planning permission is granted for an outline application (all matters reserved except for access) for the demolition of existing buildings and erection of up to 46 no. dwellings, with associated works and provision of open space at Land at Tappers Farm, Oxford Road, Bodicote OX15 4BN in accordance with the terms of the application, Ref 18/00792/OUT, dated 4 May 2018, subject to the following conditions set out in the attached Schedule.

### Procedural Matters

2. The application was submitted in outline. The application form indicates that approval was sought only for the matter of access. I have determined the appeal on this basis.
3. During the course of the application, the number of units proposed was reduced from 52 dwellings as set out in the planning application form, to 46 dwellings. It was agreed at the hearing that the description should reflect this reduction in numbers, as such I have included this in the decision above.
4. The appellant submitted a draft agreement under s106 of the Town and Country Planning Act 1990 (as amended) at the hearing. At that time a number of amendments were being made and the agreement was unsigned. I agreed to allow 7 days for the submission of a signed and completed agreement, which has now been received. I have taken this agreement and the obligations therein into account when making my decision.
5. Prior to the hearing the Council highlighted that a number of the notification letters sent to interested parties did not contain the details of the date of the

hearing. At the start of the hearing I asked for the parties' views on this matter. The Council duly informed me that the correct details were sent with the notification letters and that it was only a saved office copy that lacked the details. The Council confirmed that the correct notification had therefore taken place. I was satisfied that interested parties had been notified and I proceeded with the hearing on this basis.

6. Since the close of the hearing the appellant has drawn my attention to a recent appeal decision. The Council has had the opportunity to comment on this decision. I am satisfied no prejudice has been caused and, as such, I have taken it into account when making my decision.

### **Main Issues**

7. The main issues raised in this case are:
  - i) whether the development is acceptable in principle;
  - ii) the effect of the development on the character and appearance of the area; and
  - iii) whether the scheme makes adequate contribution towards the provision of infrastructure.

### **Reasons**

#### *Principle of development*

8. The development plan for the area consists of the Cherwell Local Plan 2011 – 2031, Part 1 (the CLP 2011) and the saved policies of the Cherwell Local Plan 1996 (the CLP 1996). At the hearing, the Council agreed that only the policies referred to in the decision notice were being relied on, namely Policies Villages 2 (PV2) and ESD15 of the CLP 2011 and Policies C15 and C33 of the CLP 1996.
9. The spatial strategy as set out in the CLP 2011 directs most growth to locations within or immediately adjoining Banbury and Bicester. Growth within the remainder of the district is limited and directed towards the larger villages. It was acknowledged by the Council that the appeal scheme would not affect its overall housing strategy.
10. PV2 identifies that 750 homes will be delivered at Category A villages, of which Bodicote is one of twenty-three, as defined in Policy Villages 1 (PV1). It was highlighted at the hearing that Policy Villages 2 contains no requirements in respect of the distribution of housing across the Category A villages, as well as no timeframe or trajectory for their delivery. Both main parties agreed that the 750-figure provided in the policy is not a ceiling or limit. It is also noteworthy that the policy requires the delivery of 750 units, not just a requirement to grant planning permission for this number.
11. My attention has been drawn to a previous appeal decision in the district<sup>1</sup> in which the Inspector noted that it would require a "material exceedance" of the 750-figure in order to conclude that there would be any conflict with PV2. The Council stated that if this appeal were allowed, it would not trigger a material increase over 750 dwellings. Furthermore, the figure refers to dwellings delivered, not consented, of which according to the Council there are 271. There are also a further 425 under construction. Since March 2014, there has

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<sup>1</sup> APP/C3105/W/17/3188671, decision date 18 September 2018

- been a delivery rate of 54 dwellings per year from PV2, which would result in the delivery of 750 homes by 2028, three years before the end of the plan period (2011-2031). This however assumes that the delivery of housing will continue at this rate and that all permissions that have been granted will not only be implemented but completed.
12. The appellant has suggested that a 10% lapse rate for sites should be applied in recognition that not all sites granted planning permission will necessarily come forward. The Council disagree with this point and contend that it is likely that all sites will be delivered. Whilst I acknowledge that the delivery rate has increased in recent years, this will undoubtedly fluctuate from year to year, as evidenced by the fact that the Council state that in 2014/15 only two homes were delivered. There is also reference to the Council's Annual Monitoring Report (2018) identifying that permission for 33 dwellings had either lapsed or not been issued, suggestive of some permitted schemes not being delivered.
  13. In my view, it is not realistic to expect that all dwellings that have the benefit of planning permission will, in fact, be delivered. I acknowledge the Council's opinion that there should not be a lapse rate applied, given that when undertaking reviews of permissions they liaise directly with developers and agents, the submission of applications to discharge planning conditions can be taken as an indication of intent to implement a permission and there is a good record of delivery. However, this does not account for any circumstances where a development may not come forward. As such, I do not consider it realistic to expect a 100% delivery rate for the permitted dwellings.
  14. Even if all sites were delivered, and as I state above, I am not convinced that they will be, it is accepted by the Council that the grant of permission for an additional 46 dwellings would not lead to a material increase over the figure expected by PV2.
  15. I note that reference is made to Bodicote having been subject to permissions for a number of developments which would deliver 99 new dwellings. However, there is no reference in PV2 to any distribution of new dwellings across the twenty-three Category A villages. Furthermore, given the close proximity of Bodicote and the appeal site to Banbury, together with good accessibility to larger settlements and the services that are within Bodicote itself, the site would be one of the most accessible locations, with access to services, for new residential development, which is reflected in its categorisation in PV1 as a Category A or "Service" village.
  16. The Council also has concern that allowing the appeal scheme would restrict the potential for a more even spread of housing across all of the Category A villages. However, PV2 does not require any spatial distribution. Moreover, the development is near to one of the main settlements, Banbury, which provides for access to a good range of services and with access to a range of transport modes.
  17. The appellant has drawn my attention to a recent appeal decision<sup>2</sup> in the district which allowed up to 84 dwellings under PV2. Notwithstanding the stance taken at the hearing, the Council now consider that this permitted scheme together with the appeal scheme would result in a material increase over the 750-dwelling delivery target. However, the Council are including 31

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<sup>2</sup> APP/C3105/W/19/3228169, decision date 9 September 2019

- dwellings for which there is a resolution to grant permission. Whilst this matter is noted, these are not schemes for which planning permission currently exists and until such time that a decision is issued on them, it is open to the Council to consider any subsequent change in circumstances that may occur.
18. The grant of permission for these 84 dwellings adds to the number of dwellings above 750 which have permission, but the number of dwellings that have currently been delivered falls far short of this figure (271 as referred to above). There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised.
  19. However, at this time, no evidence of such harm has been presented and, in my view, the allowing of this appeal for 46 dwellings would not harm the overall strategy of the development plan which is to concentrate housing development in and around Banbury and Bicester. This is particularly so given the specific circumstances of this site, including its close proximity to Banbury.
  20. The Council contended that both policies PV1 and PV2 should be considered together. However, I find nothing to suggest that this is the case, and both appear to be discrete policies against which development proposals can be assessed. In any event, it is conflict with PV2 that the Council allege, and it is this matter which I have considered. There is no mention of conflict with PV1 in the Council's reason for refusal.
  21. Accordingly, I am satisfied that the scheme would not result in a material increase over the target of delivering 750 dwellings and thus the principle of development is acceptable on this site in accordance with Policy PV2 of the CLP 2011.

#### *Character and appearance*

22. The site lies to the northern fringe of Bodicote and currently comprises of a grassed field with a number of buildings associated with a farm shop which operates at the site, together with associated external storage, with an area of caravan storage also. The site also contains several mature trees which are the subject of a Tree Preservation Order (TPO). Access to the site is gained from the adjacent White Post Road.
23. The site is enclosed along Oxford Road to the east by hedging which contains a number of trees. This boundary effectively screens the site from the majority of views from Oxford Road. To the north, along White Post Road, the site is enclosed by a mixture of hedging and post and rail fencing. There are however clear views into the site from this road where it appears as a field surrounded by existing development, particularly the existing farm shop buildings and the school located to the east. To its southern extremity, the site borders existing residential development, comprised of two-storey dwellings.
24. The Council contend that the site comprises the last undeveloped gap which provides separation between Bodicote and Banbury and as such is an important green space preventing the coalescence of these two settlements. It was also

- stated at the hearing that when leaving Banbury and entering Bodicote, there is the feel of leaving the larger settlement and entering a village. However, in my view, this overstates the importance of the site, as a whole, as a separating feature. I observed there to be development on the other side of Oxford Road, extending northwards, which stretches beyond the appeal site. This existing development already diminishes the distinction between Bodicote and Banbury and the introduction of development on the appeal site would not materially worsen this.
25. There is an area of vegetation between the northern extremity of the site and the Bankside flyover at the southern edge of Banbury which provides a much stronger visual break between the settlements. This would be unaffected by the proposal. Moreover, the existing development that lines Oxford Road does not, in my view, result in a village feel or appearance to the area. Whilst I acknowledge that the whole of the eastern boundary of the site currently comprises hedging, it is located near to existing built development and is not reflective of a rural countryside location. Furthermore, the indicative layout submitted, shows that dwellings would be set off the eastern boundary, with the provision of a green corridor which would limit the visibility of dwellings from Oxford Road. As a consequence, the introduction of built development within the appeal site would not have an unacceptably urbanising effect.
26. The Council also refer to the area surrounding the site having a spacious and open feel. However, there is built development to the immediate south of the site, as well as to the east. This significantly limits any sense of spaciousness. Whilst a school lies to the west, with its associated playing fields, this does little to create a sense of spaciousness. I appreciate that the majority of the site is currently not covered by built development, however the proposed residential development would not be out of character with its context of nearby development.
27. Additionally, the indicative layout submitted with the application shows that proposed dwellings would not extend into the northern part of the site, which would be left open as amenity open space. This would re-enforce the visual break provided by the existing landscaping I refer to above and ensure that from viewpoints in close proximity to the site along White Post Road, an open aspect is retained to an acceptable degree, with buildings set back within the site. It would also provide a "green link" with the mature trees and landscaping to the west of the site, along Salt Way. Thus, a distinction between the two settlements would be maintained.
28. The matter of access is for determination at this stage and the submitted details show the creation of a new vehicular access to the east of the existing. Whilst it is likely that this will be a more formal and well-defined feature at this location, given the context of the site, in particular the appearance of the formal and engineered slip road onto Oxford Road and the Bankside flyover, this would not be unduly prominent or appear as a discordant element. The Council also express concern in respect of the prominence of the development in views from Sycamore Drive to the north west. However, these would not be close up views and where the development may be visible, it would be in the context of the amenity open space to the north and set back into the site. As such, I consider that any visual effect in this regard would be acceptable.



29. The mature trees within the site are the subject of a TPO and whilst there is no immediate concern over the removal of these trees, the matter of the future maintenance of the trees was raised at the hearing. In this respect, I note that the indicative layout of the site takes into account the existing trees and positions buildings around them. As such, whilst I appreciate that these details are indicative only, I have no substantive evidence before me to persuade me that the scheme would have an adverse effect on the future health of the protected trees, particularly in light of the matters of layout and landscaping being for future consideration.
30. Accordingly, I find that the scheme would not harm the character or appearance of the area and as such there would be no conflict with Policies Villages 2 and ESD15 of the CLP 2011 and Policies C15 and C22 of the CLP 1996. Together, and amongst other things, these policies seek to ensure that significant adverse landscape impacts are avoided, that new development reinforces local distinctiveness, that the coalescence of settlements is resisted and that important undeveloped gaps are preserved.

### *Infrastructure*

31. The appellant provided a draft planning obligation by deed of agreement under section 106 of the Town and Country Planning Act 1990 (as amended), section 11 of the Local Government Act 1972 and section 1 of the Localism Act 2011. Subsequent to the hearing, the appellant has now provided a signed and completed agreement.
32. The agreement contains obligations following discussions with the Council, since the application was refused. Prior to the hearing, a table was provided outlining all of the requirements that the Council sought to be secured by way of the legal agreement. These include:
- Affordable housing
  - Open space and landscaping
  - Off-site sports and Community facilities
  - Primary medical care
  - Public transport services
  - Primary school provision
  - Refuse Disposal
  - Transportation and Highways
33. The submitted details outline the basis on which the contributions are sought, with reference to development plan policies and the adopted Developer Contributions Supplementary Planning Document (SPD) (2018). At the hearing, the appellant raised concern in respect of two of the required contributions as set out: Primary Medical Care (PMC) and Refuse Disposal (RD).
34. In respect of PMC, I note that the NHS Oxfordshire Commissioning Group highlights that North Oxfordshire, particularly the Banbury area, is mostly at capacity in terms of PMC and that housing growth will require additional or expanded infrastructure to be provided. I consider this to be reasonable, given the proximity of the site to Banbury where there is an identified shortfall in service provision. In regard to RD, the appellant initially had concerns that there was insufficient justification for a contribution in this respect, highlighting that facilities were ordinarily funded through Council Tax income. The Council clarified that the contribution would be towards bin provision for new dwellings, which is not funded by Council Tax. Following this, the appellant was satisfied



that the RD contribution was justified based on the SPD. I have no reason to disagree.

35. Having reviewed the details of the contributions, they are necessary to make the development acceptable in planning terms, directly related to the development as well as fairly and reasonably related in scale and kind to the development.
36. Accordingly, the scheme would comply with Policies INF1, BSC3, BSC7, BSC10, BSC11, BSC12 and SLE4 of the CLP 2011. Together, and amongst other things, the policies seek to ensure development provides a proportion of affordable housing, that education needs are met, that schemes make adequate open space, outdoor sport, recreation and community facility provision, that infrastructure is provided to meet the District's growth and that the transport impacts of development are mitigated.

### **Other Matters**

37. Interested parties have raised concerns in respect of the effect of the development on wildlife in the area, as well as on highway safety, in particular the effect of additional traffic and potential conflict with traffic in association with the adjacent school. However, I note that the Council do not object to the proposal on the basis of these matters. Furthermore, I have no substantive evidence to show that there would be any detriment in respect of these matters. As such, they have little bearing on my decision.
38. There has also been concern in respect of the effect on infrastructure in the area. The contributions secured by the legal agreement are intended to mitigate the effects of the proposal on such matters and as such the scheme would not result in any harm in this regard.
39. I note that concern has been expressed by interested parties in respect of the proximity of proposed dwellings to existing ones. However, the matter of the layout of the site is for later determination. There is also reference to the loss of the existing farm shop, as well as the use of the grassed area for events. The Council have raised no objection on this basis and in the absence of a policy basis for protecting these existing uses I find that I have no reason to find differently.
40. There was reference to the ability of the Council to demonstrate a three and five-year supply of deliverable housing sites. As I have found above that the scheme accords with an up-to-date development plan, this is not a matter which I need to consider further.

### **Conditions**

41. A list of draft conditions was provided prior to the hearing and as set out in the Statement of Common Ground; these were agreed by both main parties. Nonetheless, there was a discussion on these suggested conditions at the hearing. I have considered the conditions in light of the advice of the Planning Practice Guidance and the six tests.
42. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. A condition is also required to ensure compliance with the submitted plans, but only in respect of access, as this is not a reserved matter.

43. Given the proximity of the site to Oxford Road, I have imposed a condition requiring details of measures to ensure that the living conditions of residents will not be adversely impacted on by noise. A condition is also imposed in respect of biodiversity enhancements, as required by Policy ESD10 of the CLP2011, as well as requiring that the development incorporate the recommendations of the Habitat Survey Report. In order to protect retained trees a condition in respect of an Arboricultural Method Statement is required.
44. In order to ensure the development does not adversely affect the natural environment and or the living conditions of nearby residents, I have included a condition requiring the submission of a Construction Environmental Management Plan. In order to ensure that any contamination of the site is satisfactorily dealt with, conditions are required in respect of site investigation and any necessary remediation, together with measures to deal with unsuspected contamination.
45. I have included a condition in respect of the construction details of the vehicular access, in the interests of highway safety. Similarly, a condition is required stopping up the existing vehicular access. In order to ensure the potential for buried remains within the site is properly addressed a condition is included requiring a written scheme of archaeological investigation. So that there is no conflict between residential properties and the existing farm shop, a condition is included requiring the demolition of all existing buildings prior to the occupation of any dwelling.
46. In the interests of sustainable transport and to ensure the site is accessible by a range of transport modes, conditions are included requiring travel plan statements and travel information packs to be provided to occupiers, as well as ducting to allow for the installation of electric charging points. I have also included a condition preventing occupation of any dwelling until necessary upgrades to the wastewater, surface water and water supply infrastructure have been completed. To facilitate communications infrastructure, a condition is necessary in respect of high-speed broadband facilities.
47. In the interests of biodiversity, I have imposed a condition requiring full details of external lighting to be submitted with the reserved matters application in respect of layout. Also, in this regard I have included a condition preventing site clearance or demolition of buildings during the bird nesting season.
48. A condition is recommended in respect of the reserved matters reflecting the principles set out in the submitted parameters plan, landscape strategy plan and indicative species list. However, only the matter of access is for determination at this stage and it has not been evidenced that the illustrative details submitted would be the only satisfactory way to develop the site. As such, I do not consider this condition is necessary.
49. To safeguard landscaping that contributes to biodiversity, a condition is recommended requiring a landscape and ecological management plan. However, as landscaping is a reserved matter it is not necessary to impose such a condition at this stage. Similarly, it is not necessary to impose a condition securing the implementation of landscaping or the retention of trees and hedgerows, as these are matters that should properly be dealt with under future reserved matters.

50. Conditions have been recommended in respect of the construction of internal roads and footways, vehicular parking areas and manoeuvring areas and provision of cycle parking facilities. Whilst access is for determination at this stage, this refers only to the means of access to the site. As such, these matters can be dealt with satisfactorily under a subsequent reserved matters application in respect of layout.

### **Conclusion**

51. I have found that the scheme would not result in a material increase over the target of delivering 750 dwellings and therefore would not conflict with Policy PV2 of the CLP 2011. I have also found that the scheme would not result in harm to the character and appearance of the area. Furthermore, a completed legal agreement has been submitted securing the necessary contributions. The scheme therefore complies with the development plan.

52. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

*Martin Allen*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Sarah Reid, of Counsel

instructed by Hollins Strategic Land  
LLP

Stephen Harries BSc (Hons), MRTPI

Director, Emery Planning

Nigel Evers, CMLI

Director, Viridian Landscape Planning

### FOR CHERWELL DISTRICT COUNCIL:

Linda Griffiths

Principal Planning Officer, Cherwell  
District Council

Yuen Wong

Principal Planning Policy Officer,  
Cherwell District Council

### INTERESTED PERSONS:

Cllr Mrs Heath

Councillor, Cherwell District Council,  
Adderbury, Bloxham and Bodicote  
Ward

Zzazz Foreman

Bodicote Parish Council

Eileen Meadows

Local Resident

Matthew Case

Oxfordshire County Council

## **DOCUMENTS**

- 1 Draft Section 106 Planning Agreement
- 2 Drawing Number IL1002 Rev C – Parameters Plan Final
- 3 Letter from Bovis Homes dated 29<sup>th</sup> August 2019
- 4 Letter from Emanuel Land & Real Estate dated 18<sup>th</sup> June 2018
- 5 Letter from the Land Team UK dated 6<sup>th</sup> June 2018
- 6 Extract of appellants closing submissions made at Inquiry in respect of Appeal ref APP/C3105/W/17/3188671
- 7 Addendum to CIL table

## Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall commence not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing number 1608/01 (Proposed Site Access Arrangements White Post Road), dated April 2018.
- 5) The first reserved matters application shall be accompanied by a specialist acoustic consultant's report demonstrating that internal noise levels in habitable rooms within the dwellings and external noise levels for outdoor areas (including domestic gardens and recreation areas) will not exceed the criteria specified in the British Standard BS8233:2014 'Guidance on sound insulation and noise reduction for buildings'. Where mitigation measures are required in order to achieve these standards, full details, to include any acoustic barriers, planting, glazing and ventilation requirements as necessary, shall also be included. The approved mitigation measures shall be implemented prior to the first occupation of the affected dwellings and the first use of the outdoor areas. The measures shall be retained as approved at all times.
- 6) The first reserved matters application shall be accompanied by a method statement for protecting and enhancing biodiversity on the site, to include all details of proposed bat and bird boxes and all integrated features within buildings, together with timings for their installation. The method statement shall also include details in respect of the implementation of the recommendations as set out in Section 6 – Conclusions and Recommendations of the "Extended Phase 1 Habitat Survey Report", prepared by REC, dated April 2018. The biodiversity protection and enhancement measures shall be carried out and retained in accordance with the approved details.
- 7) As part of the reserved matters application in respect of layout, a surface water drainage scheme for the site shall be submitted. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The scheme shall also include:
  - Discharge Rates
  - Discharge Volumes
  - SUDS (Sustainable Drainage Systems) (the suds features mentioned within Section 5.3 of the Flood Risk Assessment)
  - Maintenance and management of SUDs
  - Infiltration tests to be undertaken in accordance with BRE365 – Soakaway Design
  - Detailed drainage layout with pipe numbers
  - Network drainage calculations

- Phasing plans
- Flood routes in exceedance (to include provision of a flood exceedance route plan).

The scheme shall be implemented in accordance with the approved details.

- 8) The reserved matters application in respect of layout shall include full details of all external lighting, including predicted lux levels and light spill and details showing that lighting avoids vegetation and site boundaries. The lighting shall at all times accord with the approved details.
- 9) No development, other than demolition, shall commence before an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include protective fencing specifications and details of construction methods close to retained trees and hedges; and shall be undertaken in accordance with BS: 5837:2012 (including all subsequent revisions). Thereafter, the development shall at all times be carried out in accordance with the approved AMS.
- 10) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by the local planning authority. The CEMP shall include details of:
- i) Construction traffic management measures;
  - ii) Measures to ensure construction works do not adversely affect biodiversity and protect habitats and species of biodiversity importance;
  - iii) Measures to ensure construction works do not adversely affect nearby residential properties, including any details of consultation and communication with local residents.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 11) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- i) a survey of the extent, scale and nature of contamination;
  - ii) the potential risks to:
    - human health;
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
    - adjoining land;
    - ground waters and surface waters;
    - ecological systems; and
    - archaeological sites and ancient monuments.

- 12) No development shall take place where (following the risk assessment required by Condition 10) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 13) No development shall take place, other than demolition, before full details of the means of access between the land and the highway, including layout, construction, materials, surfacing, drainage and vision splays have been submitted to and approved in writing by the local planning authority. The means of access shall be completed in accordance with the approved details prior to the occupation of any dwelling and thereafter retained as approved.
- 14) No development shall take place until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) the provision to be made for analysis of the site investigation and recording;
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 15) Prior to the occupation of any dwelling hereby approved, all existing buildings as shown on Drawing Number S18-225 (Topographical Land Survey) shall be demolished and the resultant debris and materials removed from the site.
- 16) No dwelling shall be occupied before a Travel Plan Statement and Travel Information Pack have been submitted to and approved in writing by the local planning authority. The approved documents shall be provided to each dwelling on its first occupation.
- 17) No dwelling shall be occupied until a system of ducting to allow for future installation of electrical vehicles charging infrastructure has been provided to serve that dwelling.



- 18) No dwelling shall be occupied until written confirmation has been provided that either:
- i) all wastewater network, surface water network and water network upgrades required to accommodate the development have been completed, or
  - ii) a housing and infrastructure phasing plan has been submitted to and approved in writing by the local planning authority, allowing properties to be occupied on a phased basis.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the approved details.

- 19) No dwellings shall be occupied until it has been provided with service connections capable of supporting the provision of high-speed broadband to serve that dwelling.
- 20) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 21) Prior to the first use of the access hereby approved, the existing access onto White Post Road shall be permanently stopped up by means of the installation of a verge and full-height kerb and shall not be used for any vehicular traffic whatsoever.
- 22) Any vegetation clearance and all works to demolish existing buildings shall take place outside of the bird nesting period (1 March to 31 August inclusive), unless a check for breeding birds has been undertaken by a suitably qualified surveyor within 24 hours of work commencing. If a nest (or a nest in construction) is found, a stand-off area should be maintained until the young have fledged.