

Case Officer: Sarfaraz Khan

Recommendation:

Applicant: Mr Adrian Shooter

Proposal: Outline:- 1 new dwelling

Expiry Date: 13 August 2021

Extension of Time:

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to a residential property sitting at the rural edge of the village of Steeple Aston and comprises a large two-and-a-half storey dwelling with brick and painted rendered elevations under a clay tiled roof, sitting within a substantial garden. To the north-east of the main dwelling towards the northern boundary is a single-/two-storey rendered outbuilding providing garage/workshop accommodation with home-office space at first floor level, and a further separate single storey timber-clad garage building. There several further, low-rise outbuildings within the site associated with a narrow-gauge railway that has been developed within the site.
- 1.2. The existing dwelling sits to the south-west of residential properties within the village which front onto the Heyford Road. A further residential dwelling (Orchard House) sits immediately to the east of the Beeches. The site is served by an existing access and private driveway which rises up from the Heyford Road. Land levels drop across the site from the north-west to the south-east, down to the adjacent highway. The site contains several significant trees and predominantly bounded by mature hedgerows again including mature trees, with paddock and open countryside beyond.
- 1.3. In terms of site constraints, whilst the site is not within the designated Steeple Aston Conservation Area, the boundaries of the Rousham Conservation Area lie adjacent to the east of the site. There are no listed buildings within the vicinity of the site. The site is within an area of high archaeological interest. The site is within a Minerals Consultation Area. A Public Right of Way (ref. Footpath 364/8/10) crosses land west of the site. There are records of protected and notable species (including: Swifts and Eurasian Badgers) as being present within the vicinity of the site. The site sits within an area where the geology is known to contain natural occurring elevated levels of Arsenic, Nickel and Chromium; as seen across much of the district, and further, an area of higher probability (10-30%) of natural occurring Radon Gas being above Action Levels.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 This application seeks outline planning permission to sub-divide the existing application plot and create a new separate plot of land on which 1 no dwelling is to be erected, with a vehicular access point being taken from the Heyford Road, largely utilising an existing access and private driveway. The applicant has confirmed by email that means of access and scale are to be assessed, with appearance, layout and landscaping reserved for future consideration.
- 2.2 The current application follows the refusal of three earlier outline applications, refs. 20/02227/OUT, 19/01601/OUT and 20/00964/OUT, and an initial application 19/00457/OUT that was withdrawn prior to a decision of refusal being issued. The

nature of the development proposals is similar to previously considered albeit with a much smaller quantum of development now being proposed, i.e., 1 unit as opposed to up to 8 or 10 units as in previous applications.

- 2.3 Whilst layout is a reserved matter, the applicant has submitted an Indicative Site Plan (Drawing. No. A 033 16 June 2021), which gives an indicative layout. The detail of the indicative layout is further expanded upon in the supporting Design and Access Statement (DAS), which indicates that the existing dwellinghouse (The Beeches) would be retained while the existing narrow-gauge railway and existing wooden sheds, outbuildings and existing garage block would be demolished to facilitate the proposed development. Furthermore, a tree report (Reference: SB/JS/635) has also been submitted which details measures that will be taken to retain and protect trees currently on-site as well as detailing any recommended management works to other trees on-site and also detailing trees needing to be removed.
- 2.4 Scale is a matter to be assessed in the current application. The submitted information indicates that a two-storey detached dwelling is proposed. The submitted elevations show a dwelling of c.8.8m overall height, with an eaves for part of the dwelling of c.5.75m and a reduced eaves height for part of the dwelling of c.4.4m. Appearance is a reserved matter but the submitted plans indicate a timber framed dwelling with oak boarding render and clay tiles, designed with a gable and valley roof and a separate garage.

3. RELEVANT PLANNING HISTORY

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

Application: 03/01943/F Permitted 31 October 2003

Erection of a station pavilion and tractor shed

Application: 05/00840/F Permitted 17 June 2005

Single storey rear extension.

Application: 19/00167/PREAPP Response Sent 11 July 2019

8 new detached dwellings

Application: 19/01206/OUT Not proceeded with

Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road.

Application: 19/00457/OUT Application Withdrawn 9 May 2019

Erection of up to 8 No dwellings with all matters reserved except the means of access onto Heyford Road

Application: 19/01601/OUT Refused 31 October 2019

Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road.

Application: 20/00964/OUT Appeal Dismissed 1 June 2020
(Against Refusal)

Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road

Application: 20/02227/OUT Refused 12 November 2020

Erection of up to 10 dwellings with all matters reserved except the means of access on to Heyford Road

Application: 20/02539/SO Screening Opinion 21 October 2020
not requesting EIA

Screening opinion to 20/02227/OUT - Erection of up to 10 dwellings with all matters reserved except the means of access on to Heyford Road

Application: Application 12 October 2021
21/00243/PREAPP Withdrawn

Reduce the length of track used by the railway. Erection of a bungalow. Replace the existing workshops/office with a new 3 bedroom house. Add an infill development of two 3 bedroom houses. Landscape the existing garden. Sustainable Drainage Systems (SuDS) will be used.

4. PRE-APPLICATION DISCUSSIONS

- 5.1. Although there are several pre-applications registered at the application site, no pre-application discussions have taken place which are relevant to the current proposal.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring 29th July 2021, by advertisement in the local newspaper 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 was 29 July 2021.
- 5.2. No comments have been raised by third parties

6. RESPONSE TO CONSULTATION

- 6.1 MID-CHERWELL NEIGHBOURHOOD PLAN FORUM (MCNPF): No comments.
- 6.2 STEEPLE ASTON PARISH COUNCIL: **No objections.**

OTHER CONSULTTEES

- 7.1. ARBORICULTURE: No comments.
- 7.2. LAND DRAINAGE: **No Objections**
- 7.3. BUILDING CONTROL: **No objections.**

- 7.4. ECOLOGIST: No comments.
- 7.5. ENVIRONMENTAL PROTECTION: **No objections subject to conditions**, in relation to Electrical vehicle Charging points and consideration of the potential for land contamination.
- 7.6. OXFORDSHIRE COUNTY COUNCIL:
- ARCHAEOLOGY: **No objections.**
 - LOCAL HIGHWAY AUTHORITY: **No objection, subject to a condition requiring the provision of a car parking layout plan.**
 - MINERALS & WASTE AUTHORITY: **No objections.**

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental pollution

- ENV12: Potentially contaminated land
- 7.3 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 **Mid-Cherwell Neighbourhood Plan (MCNP)** and the following Policies of the Neighbourhood Plan are considered relevant:
- PD1: Development at Category A Villages
 - PD4: Protection of Important Views and Vistas
 - PD5: Building and Site Design
 - PH1: Open Market Schemes
 - PH5: Parking, Garaging and Waste Storage Provision
- 7.4 Other Material Planning Considerations
- National Planning Policy Framework (NPPF)
 - Planning Practice Guidance (PPG)
 - Rousham Conservation Area Appraisal 2018
 - Steeple Aston Conservation Area Appraisal 2014
 - Cherwell Residential Design Guide SPD (July 2018)
 - Annual Monitoring Report (AMR) (December 2019)
 - Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy, (September 2017)
 - Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
 - EU Habitats Directive
 - Natural Environment and Rural Communities Act 2006
 - Conservation of Habitats and Species Regulations 2010
 - Circular 06/2005 (Biodiversity and Geological Conservation)
 - Oxfordshire Wildlife & Landscape Study 2004

8. APPRAISAL

The key issues for consideration in this case are:

- Principle of development
- Impact on Visual Amenity
- Heritage Impacts Impact on Residential Amenity
- Ecology and biodiversity
- Highway Safety

Principle of Development

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the CLP 2015 and the saved policies of the CLP 1996 as well as a number of Adopted Neighbourhood Plans; in respect of this application this includes the Mid-Cherwell Neighbourhood Plan.
- 8.2 The National Planning Policy Framework (NPPF) and Policy PSD1 of the CLP 2015 state that all planning applications for new development (including housing) should be considered in the context of the presumption in favour of sustainable development.

- 8.3 The NPPF's key objective is to support the achievement of sustainable development through the planning system, recognising the need to secure gains in the overarching objectives (economic, social and environmental). In respect of new residential development there is a requirement for the provision of new housing of the right type in the right location at the right time, and that development should contribute to protecting and enhancing our natural, built and historic environment, as well as fostering a well-designed and safe built environment (Para. 8). These aims are echoed within the policies of the CLP 2015 which looks to support sustainable development.
- 8.4 The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12).
- 8.5 The Council's 2021 Annual Monitoring Report (AMR) confirms that the District can demonstrate a 3.8 years housing land supply. In the circumstances that a LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and ordinarily the circumstances at paragraph 11d of the NPPF are engaged – in short development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 8.6 Policy Villages 1 of the CLP 2015 categorises villages to guide small-scale residential development to help understand which villages are best placed to sustain different levels of residential development. Policy Villages 1 ensures that new developments within the built-up limits of a village is of an appropriate scale for that village, is supported by services and facilities and does not unnecessarily exacerbate reliance on private car journeys. Steeple Aston is recognised as a Category A village where new residential development will be permissible if comprising minor development, infilling or other conversions.
- 8.7 Policy Villages 2 of the CLP 2015 is considered relevant only insofar as it details the Council's rural housing allocation. Policy Villages 2 allocates a total of 750 dwellings to 2031 across the District's 23 Category A settlements (this is over and above minor windfall developments within the built-up limits of the villages). This allocation is already committed, either through completions (503 as at 31 March 2021), commencements (246 as at 31.03.21) or planning permissions (319 as at 31.03.21, with some of those having since commenced). The overall total of [completions + commencements + permissions] at Category A villages has therefore now reached c.1,062 (applying a lapse rate of 10% for those not yet commenced and adding a further 26 dwellings across two sites on which there is a resolution to approve and now subject to completion of S106 agreements).
- 8.8 Notwithstanding the above, the proposal is for one dwelling and therefore does not find support under Policy Villages 2.
- 8.9 Policy ESD1 of the CLP 2015 states that measures will be taken to mitigate the impact of development within the District on climate change. This will include: distributing growth to the most sustainable locations as defined by Policy Villages 1 and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars. Whilst this a strategic level policy it is considered relevant in the assessment and determination development proposals; reflecting the general provisions and aims of development plan policies

and national guidance within the NPPF in respect of sustainable forms of development.

- 8.10 The MCNP established settlement boundaries for the Category A villages within its Plan area. The wider site edged in blue on the location plan falls outside of the identified settlement boundaries. Policy PD1 of the MCNP relates to new development at Category A villages within its Plan area, and states that any residential development which is outside the settlement areas of these villages must have particular regard to all the following criteria:
- a) The site should be immediately adjacent to the settlement area
 - b) The site should not be the best and most versatile agricultural land and the use of previously developed land is particularly likely to be acceptable.
 - c) The development should conserve and, where possible, enhance the landscape.
 - d) The development should conserve and, where possible, enhance the special interest, character and appearance of the conservation areas and the significance of other heritage assets (see Appendix K: Heritage and Character Assessment).
 - e) The development should not give rise to coalescence with any other nearby settlement. This particularly applies to Steeple Aston and Middle Aston.
- 8.11 Policy PD1 identifies the total ‘*approximate*’, ‘*indicative*’ number of additional dwellings permitted during the Plan period, either within the settlement areas of these villages or adjacent to them, as being 20no. for Steeple Aston. It is noted that there is a resolution to grant planning permission for 10no dwellings (19/02948/F) (subject to completion of S106 agreement, currently being negotiated) at the north end of the village (Southside).
- 8.12 The MCNP establishes settlement boundaries for the Category A villages within the plan area. The application site clearly falls beyond the identified settlement boundary of Steeple Aston within the MCNP.
- 8.13 Counsel advice given to the applicant and submitted in support of previous applications (20/00964/OUT) makes a number of assertions in relation to the Council’s assessment of application 19/01601/OUT. In respect of whether the site falls within built-up area of the settlement the applicant’s Counsel advice considers: “...it does not devolve to the Neighbourhood Plan process the means of delimiting the built up area boundaries of settlements.”
- 8.14 Officers disagree. It is entirely reasonable and appropriate for the MCNP to define a settlement boundary; indeed, it is one of the roles of a neighbourhood plan. The Cherwell Local Plan makes clear at various points that Neighbourhood Plans will take on the role that would otherwise be assumed by any Local Plan Part 2. The MCNP was found to be in conformity with the CLP 2015 and found sound by the Examiner and now forms part of the Development Plan for the area. It is not appropriate for Counsel advice to seek to re-examine the MCNP or the purpose of Neighbourhood Plans.
- 8.15 The built limits of a settlement are defined by the extent of the built form of the village and its relationship with other built development; and extensive areas of garden land to properties on the periphery of the village are generally considered to lie beyond the built limits of the village. Unlike the wider site edged in blue which in previous applications officers concluded was outside the built limits of the village, it is considered that the site as defined by the red line may be considered as being within the built limits of the village for the purpose of PV1.
- 8.16 That said, whether or not the site is beyond the built limits of the village is not necessarily determinative. MCNP Policy PD1 in the MCNP does not preclude the

development of land just because it is outside the built limits of a settlement, and sites immediately adjacent to the settlement area may be appropriate for development. The key test is how a site relates to the village and how the development of a site would impact on the setting of the village and the character and appearance of the area.

8.17 The MCNP was 'made' in 2019 and forms part of the Development Plan. In assessing new residential development on the edge of Category A villages regard must be had to the provisions of Policy PD1 as set out above. Policy PD1 is in conformity with Policy Villages 2 of the CLP 2015. However, given that Policy PD1 is a more recently adopted policy and is specific (in this instance) to Steeple Aston, officers consider that greater weight should be given to Policy PD1 in consideration of the principle of development in this instance. In assessing the proposals against the criteria of PD1 in turn, officers consider the following points to be relevant:

a) The defined settlement edge follows the boundaries of the curtilage/planning unit (synonymous in this instance) of the adjacent property 29a Heyford Road to the north of the site. The site (as defined by the red line) sits adjacent the settlement boundary at the north-eastern corner of the site, meaning the proposal would sit adjacent the settlement boundary as defined by the MCNP, in what is considered to be a location that is somewhat divorced from the existing pattern of residential development and beyond the built-up limits of the village. These matters are discussed further below.

b) The site is not agricultural land; it is currently part of the extended residential garden of a residential dwelling in a rural location and recent case law has determined that such land could be considered as previously developed land (PDL). Whilst in some instances the development of PDL is likely to be acceptable, the fact that the land could be considered PDL does not mean that there should be a presumption in favour of its development, particularly where there is conflict with the policies of the development plan. Indeed, within the definition of PDL within the NPPF glossary it is highlighted that '*...it should not be assumed that the whole of the curtilage should be developed...*'. The key consideration is whether the proposed development is appropriate in the context.

"Proposed housing development may comply with some planning policies and not others and in certain circumstances conflict could arise where a scheme is manifestly incompatible with the relevant strategy. It is a matter of undertaking the planning balance to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. The planning balance will be weighed at the conclusion of this report."

c) The proposed dwelling would be broadly on the siting of an existing, smaller building, and relatively close to the existing dwelling on the site, as well as Hillside to its south-east and another dwelling to the north-east. That said, were it not for the existing tree planting, the proposed dwelling would be seen from the countryside and would have some visual impact. Overall, though, subject to retention of the existing tree planting, it is considered that the proposal would not adversely affect the landscape.

d) It is considered that, given the location and context of the site in respect of nearby heritage assets, the proposals would not likely result in significant detrimental impacts on these heritage assets or the setting of such (see later in this report)

e) The proposals would not give rise to coalescence with any other nearby settlement.

8.18 Subject to retention of the tree planting to the site's northern boundary, the proposal would represent minor development within the built-up limits of the village as per the definition under paragraph 2.65 of the CLP 2015 and the proposal would therefore be compliant with Policies PH1 of the MCNP, Policies BSC2 and Villages 1 of the CLP 2015 and Government guidance within the NPPF. The development is therefore considered acceptable in principle and will be assessed against the wider development plan policies.

Impact on Visual Amenity

8.19 Government guidance contained within the National planning Policy Framework 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.

8.20 These aims are echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that: *"New development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages"*.

8.21 Development should contribute positively to an area's character and identity by creating or reinforcing local distinctiveness. It should also integrate and enhance green infrastructure and integrate with existing streets and public spaces.

8.22 Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

8.23 The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.

8.24 The site was previously identified as being within an Area of High Landscape Value under policies of the CLP 1996, where the Council sought to conserve and enhance the environment. Policies in respect of landscape protection and enhancement have subsequently been replaced by Policy ESD13 of the CLP 2015 which adopts a character-based approach to seek to conserve and enhance the countryside and landscape character of the whole District.

8.25 Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.

- 8.26 The landscape around the site is located within the Farmland Slopes & Valley Sides character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.
- 8.27 The OWLS note that the Farmland Slopes & Valley Sides is characterised by 'A landscape type with prominent slopes within broader valleys. It is occupied by a mixed pattern of pasture and arable land. Long-distant views across the valleys are characteristic. The OWLS set out that the key characteristics comprise of:
- Prominent slopes and valley sides interrupted by a number of small, narrow v-shaped valleys.
 - Large arable fields on the gentler slopes and small pasture fields on the steeper slopes and steep-sided valleys.
 - A well-defined pattern of tall hedges and hedgerow trees.
 - Small woodland copses and belts on steep slopes and along watercourses in the minor valleys.
 - Small unspoilt villages with rural character.
- 8.28 Land west of the site is located within the Wooded Estatelands character type within OWLS 2004. This neighbouring character type would not be directly affected by the proposed development.
- 8.29 All matters aside from access and scale are reserved for future consideration, and therefore the principle matter for consideration is whether a two-storey dwelling can be satisfactorily accommodated on the site without detriment to the character and appearance of the area. The existing dwelling is largely screened to views from the public domain by existing natural screening and the topography of the surrounding land. Whereas the western part of the site sits within tranquil open countryside and is visible from the public right of way (PRoW) to the west of the site, the part of the site where the proposed dwelling would be located is less visible and would be screened in a similar way to the existing dwelling.

Heritage Impact

- 8.30 Sitting adjacent the Rousham Conservation Area the site has the potential to affect the setting of a Conservation Area.
- 8.31 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 8.32 Paragraph 189 of the NPPF states that: "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."
- 8.33 Paragraph 193 of the NPPF states that: "When considering the impacts 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." Paragraph 194 of the NPPF goes on to state that: "Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification."
- 8.34 Paragraph 196 of the NPPF states that: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset,

this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

- 8.35 Policy ESD15 of the CLP 2015 states that new development proposals should: “Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”
- 8.36 Previous proposals were considered to be acceptable in this regard. Whilst there is a reduction in the number of proposed dwellings with now only one dwelling proposed, the indicative layout indicates a similar development area with the same general relationship to the historic environment to that previously assessed. There is no change to the historic context officers see no reason to now reach a different conclusion in respect of heritage impact to that reached in the assessment of applications 19/01601/OUT and 20/00964/OUT.
- 8.37 The application site is not within a designated conservation area and there are no listed buildings within the immediate vicinity of the site. The Rousham Conservation Area (CA) boundary lies adjacent to the Heyford Road east of the site, whilst the Steeple Aston Conservation Area boundary lies some 230m to the north of the site.
- 8.38 Whilst no formal comments have been received from the Conservation Officer in respect of the current application, there have previously been no objections in this regard during preceding applications at the site. As noted above, given that this is an outline application the site layout is indicative. However, given the constraints of the site and based on the indicative layout plan it is likely that the proposed development would be set away from the boundaries of the Rousham CA.
- 8.39 Overall, it is considered that the proposed development would not result in demonstrable harm to the character and appearance of the Rousham CA or its setting, and would thus accord with Policy ESD15 of the CLP 2015 and Government guidance within the NPPF in this regard.

Impact on Residential Amenity

- 8.40 Policy ESD15 of the CLP 2015 states that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 8.41 Para. 180 of the NPPF advises of the need Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.42 Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: ‘*new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space*’.
- 8.43 The relationship of the existing and proposed dwellings and the respective outside amenity areas needs to be considered. As noted above, the proposed location is close to the existing dwelling, at a distance of approx. 15 metres.. However, given that appearance and layout are reserved, a subsequent applicant can ensure that the proposed dwelling is designed so as not to adversely affect the amenity of the occupiers of the existing dwelling.
- 8.44 In addition of the existing dwelling on the site the proposed dwelling would be necessarily near to the boundary with the neighbouring 29A Heyford Road. The

proposals in outline appear to be 5-6m from the boundary with this neighbouring property; however, given the separation distance of 35-40m the proposed dwelling would not cause any significant loss of amenity to the neighbouring occupiers at 29A Heyford Road.

- 8.45 The proposed dwelling would provide a satisfactory level of outlook and natural light for future occupiers. I am satisfied that the proposed dwelling would also provide sufficient internal layouts for a satisfactory living environment for the residential amenity of future occupiers.

Environmental & Sustainability Matters

- 8.46 Policy ESD1 of the CLP 2015 states that measures will be taken to mitigate the impact of development within the District on climate change. This policy further encourages new developments to incorporate suitable adaptation measures to ensure that new developments are resilient to climate change. Policy ESD3 of the CLP 2015 states 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. Policy ESD3 of the CLP 2015 further states that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods.
- 8.47 Appropriate conditions have been attached which require the submission of a sustainable construction statement showing sustainable construction methods including but not limited to the use of reclaimed materials, water harvesting, and ecological and biodiversity enhancement measures and a vehicle charging point and other similar measures have also been attached.

Drainage & Flood Risk

- 8.48 Policy ESD3 of the CLP 2015 states that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water runoff. Policy ESD10 of the CLP 2015 promotes the protection and enhancement of biodiversity and the natural environment. These policies are both supported by national policy in the NPPF.
- 8.49 Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 8.50 Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District. The site is in a location that is not identified as being at higher risk of flooding. Policy ESD 7 sets out the Council's approach to Sustainable Drainage Systems (SuDS). Managing drainage more sustainably can ensure that developments are better adapted to the predicted impacts of climate change which include more intense rainfall events. To ensure that the development does not have any adverse offsite impacts and increase flood risk elsewhere it is necessary to demonstrate that the sustainable drainage of surface water and foul drainage from the proposed development can be achieved.
- 8.51 The Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal. However, whilst the Flood-Risk Assessment and Drainage Strategy

report (FRA) submitted in support of the application indicates that an acceptable sustainable drainage strategy can be achieved, the Lead Local Flood Authority advise that there is insufficient information submitted to establish this; in this respect it concluded that the proposals have failed to demonstrate that an acceptable sustainable drainage strategy for the site can be delivered. Furthermore, conditions requiring the provision of SUDs, the submission of Flood-risk assessment in-line with the Flood Risk Standing Advice as issued by the Environment Agency have also been attached.

Drainage & Flood Risk

- 8.52 Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 8.53 Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 8.54 Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 8.55 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. 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.
- 8.56 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.
- 8.57 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.

- 8.58 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:
- a. 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?
 - b. That there is no satisfactory alternative.
 - c. 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.
- 8.59 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).
- 8.60 The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
- 8.61 Turning to the assessment of the proposals against the criteria of PV2 where not already covered above in regard to Policy PD1 It is considered that the proposals are unlikely to result in significant adverse impact on heritage or wildlife assets.
- 8.62 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:
- a. present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- b. 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
 - c. 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')
- 8.63 The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site whilst not considered to contain any significant features of ecological and biodiversity value there are a number of mature trees and hedgerows that bound the site, and therefore has the potential to be suitable habitat for bats, breeding birds and badgers.
- 8.64 In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS

are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

- 8.65 In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.
- 8.66 The site is considered to be of some ecological potential and offers opportunities for biodiversity at the site. In a previous application under application reference 20/02227/OUT which were supported by a detailed Ecological Impact Assessment (EIA), Bat Assessment and Biodiversity Impacts Assessment (BIA) prepared by 'Ecolocation', the application site was found to have potential to support a number of protected species including badgers and bats and nesting birds.
- 8.67 Although not commenting on the current application, the Council's Ecologist (CE) reviewed the submitted ecological information under the previous application under application reference 20/02227/OUT, noting that whilst there are no significant protected species issues on site there are however habitats of value. The CE advised that should permission be granted a Construction Environmental Management Plan (CEMP) for biodiversity would be required. This would need to outline which areas would be protected during construction and how, timings of works to avoid harm to species on site, sensitive methods of working etc.. Further it should also include the measures outlined in sections 5.1 and 5.2 of the Bat Assessment which include those on lighting; to ensure no adverse impacts on ecology during any such construction phase.
- 8.68 The CE noted in the previous application that whilst the BIA outlines the habitats currently on site and those to be created and suggest a good level of nett gain in biodiversity no specific calculations have been included so it is difficult to check the actually check. The CE therefore recommends that, should permission be granted, the submission of a Landscape Environmental Management Plan (LEMP) (including a metric to show the level of nett biodiversity gain) would need to be required by condition so that full details of all retained and created habitats and how they will be managed and monitored is secured, to ensure that proposals actually result in a nett gain in biodiversity opportunities at the site.
- 8.69 Officers are satisfied, on the basis of the advice from the Council's Ecologist subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development, and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged. Further that the proposals could demonstrate a nett gain in biodiversity at the site in accordance with the provisions and aims of Policy ESD10 of the CLP 2015 and Government guidance within the NPPF in respect of Conserving and enhancing the natural environment.

Highway safety

- 8.70 The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 8.71 The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:

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

8.72 Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.

8.73 In terms of access to the proposed dwelling house from Heyford Road, the proposed dwelling relies on a vehicular access point located along Heyford Road, largely utilising an existing access and private driveway. However, no cycle storage provision has been provided or outlined. However, given the form of development and its locality, this is likely to be accepted. Cycle storage would however be required within the sites rear garden area and this would need to be shown on appropriate plans, a condition requiring the provision of covered and secure cycle storage has therefore been attached.

8.74 As noted by the case officer in considering the previous application, concerns were previously raised during the earlier applications with regards to the proposed access to the development not being acceptable and the lack of pedestrian connectivity from the site back into the village. These matters have been addressed in the previous and current submission, with the plans demonstrating that safe access with appropriate vision splays and can be achieved, and further a pedestrian link could be achieved, details of which are included within the submitted Transport Statement (TS).

8.75 The local highway authority raises no objection subject to a condition requiring the provision of a car parking layout plan. I concur with this view and the appropriate condition has been attached. It is considered that the proposals would not result in a significant increase in traffic movements and I see no reason to disagree with Highway’s assessment.

9. PLANNING BALANCE AND CONCLUSION

9.1 There remains a need to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.

9.2 The proposals would provide additional housing (attracting significant weight) and likely to provide some economic benefits to the local construction industry during construction (limited to moderate weight). The proposals would also not conflict with provisions and aims of the housing policies of the Development Plan, including those of the recently adopted Mid-Cherwell Neighbourhood Plan (attracting

substantial weight). It is considered that there would be minimal adverse impacts on the natural environment (substantial weight), through development which respects insofar as is reasonably possible local distinctiveness, and accords with the environmental and sustainability policies of the Development Plan.

- 9.3 Given the above assessment in the light of current guiding national and local policy context it is considered that the proposals represent an appropriate form of infill development as per Policy Villages 1 of the CLP 2015. The proposal would also make effective and efficient use of land. The proposals are considered acceptable in terms of highway safety, residential amenity and any potential neighbour impacts, and could likely be made acceptable in terms of biodiversity enhancements and would preserve the overriding character and appearance of the area and reflect or reinforce local distinctiveness by introducing residential development which would accord with the existing pattern and rhythm of development within the area. Although it has not been demonstrated that an appropriate sustainable drainage strategy could be achieved at the site, this could be resolved at the reserved matters stage through appropriate conditions. As such, the proposal conforms to the policies as set out above and should be approved subject to conditions:

10. RECOMMENDATION

That permission is granted, subject to the following conditions:

1. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason - To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

3. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents:

- Drawing title: Ground Floor Plan Drawing Number: A001
- Drawing title: Proposed Site Plan Drawing Number: A033
- Drawing title: First Floor Plan Drawing Number: A002

- Drawing title: Elevation 1 Drawing Number: A010
- Drawing title: Elevation 2 Drawing Number: A011
- Drawing title: Elevation 3 Drawing Number: A012
- Drawing title: Elevation 4 Drawing Number: A013
- Drawing title: Site Survey Drawing Number: A031
- Drawing title: Aerial View Drawing Number: A034
- Drawing title: Existing Site Plan Drawing Number: A032
- Drawing title: E-mail entitled app ref: 21/02147/OUT located at The Beeches, Heyford Road, Bicester, OX25 4SN sent on 20th October 2021 at 14:39
- Drawing title: Victoria House Location Map Drawing Number: A030
- Drawing title: Roof Plan Drawing Number: A003
- Drawing title: Victoria House Section Plan Drawing Number: A020

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.

5. Notwithstanding the submitted details, no development shall commence unless and until full specification details of the existing access road, proposed parking and manoeuvring areas, including construction, surfacing, layout, and drainage have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first use of the access road the development shall be constructed in accordance with the approved details.

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

6. No development (excluding demolition) shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is completed and thereafter maintained.

Reason: This is required as a pre-commencement condition in accordance with the SI 2018 566 The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 as the information is required prior to development commencing to prevent or reduce the risk of flooding to the proposed development and future occupants and ensure the implementation of suitable flood risk management strategies, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these in accordance with policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework.

7. A Sustainable Construction Statement detailing the use of sustainable construction methods and the use of reclaimed and locally sourced materials (where possible), the implementation of energy efficiency and other similar measures including but not limited to rainwater harvesting, solar panels etc. shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the development. The development shall not be implemented other than in accordance with the approved details.

Reason: In order to encourage sustainable development and the use of

renewable energy as per policies ESD3 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework.

8. Details of the provision for the secure, and where appropriate, covered storage for cycles and motorcycles shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development. The development shall not be carried out other than in accordance with the approved details and shall be maintained as such thereafter.

Reason: In order to secure the satisfactory development of the application site in the interests of sustainable travel options, in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. The biodiversity enhancement measures shall be carried out in accordance with that timescale or prior to the first occupation of the development in any case where a timescale is not specifically set out and shall be retained as such thereafter.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

10. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CTMP shall be implemented and operated in accordance with the approved details and the development shall not be carried out other than in accordance with the approved CTMP.

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

11. No fewer than one charging point for electric vehicles shall be provided at each residential unit with dedicated parking. No fewer than 10% of non-dedicated parking spaces shall be provided with electric vehicle charging points.

Reason: In order to encourage sustainable development and the use of renewable energy as per policies ESD3 and ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework.

12. Prior to the first occupation of the development 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.

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Case Officer: Sarfaraz Khan

DATE:

Checked By: Nathanael Stock

DATE: 17.01.2022
