

**OS Parcel 9100 Adjoining And East Of Last  
House Adjoining And North Of Berry Hill Road  
Adderbury**

**22/00959/REM**

**Case Officer:** Andy Bateson

**Recommendation:** Approve

**Applicant:** Hayfield Homes Construction Limited

**Proposal:** Reserved matters application pursuant to outline planning permission 19/00963/OUT to discharge all remaining reserved matters (appearance, landscaping, layout and scale)

The outline planning application was not subject to an environmental impact assessment.

**Expiry Date:** 11 July 2022

**Extension of Time:** 11 November 2022

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site lies to the south of the village of Adderbury, on the north side of Berry Hill Road, close to the A4095 but separated from it by a field and a public right of way (PROW). The land extends to 4ha in area and is currently agricultural land surrounded by field hedgerows and trees, although it was recently granted consent at appeal (September 2021) to be developed for 40 homes (see planning history below). To the east edge of the site is a stable and haybarn and a large part of the land (northern and eastern portions) is currently used for associated equestrian purposes. To the south and east of the site are agricultural fields, to the west is residential development in the form of a ribbon of detached houses set back from Berry Hill Road and to the north is further agricultural land that slopes down to the north, with a sewerage treatment works close to the northern boundary of the site, just beyond another PROW.
- 1.2. In terms of recorded site constraints, the site has some potential for naturally occurring contamination, there are ecological records nearby and a PROW runs along the northern edge of the site (and to the eastern side but outside of the site). In terms of heritage assets, the Adderbury Conservation Area boundary is approximately 180m to the north of the site, there are views available from Berry Hill Road across the application site towards the spire of the Grade I listed Church of St Mary and the site has some potential for archaeological interest. Otherwise, there are naturally occurring constraints including the topography of the land, which slopes down significantly to the north and the field boundaries of mature hedgerows interspersed with mature trees.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. Following the grant of planning permission at appeal, this application seeks reserved matters approval for appearance, landscaping, layout and scale of a residential development of 40 homes.
- 2.2. The proposal would consist of 32 two storey houses and 8 bungalows, arranged in a number of perimeter blocks with houses facing out onto roads. 14 Affordable units would be provided on the site.

- 2.3. Through the course of the application numerous changes have been made to the layout of the development to address officer design concerns.
- 2.4. As part of the application the applicant also wishes to discharge conditions 1, 14, 17, 18 and 20 [details of reserved matters, arboricultural protection, landscaping, landscape management and air quality assessment, respectively] of appeal consent APP/C3105/W/20/3255419 as well as the partial discharge of conditions 5, 7, 11, 12, 13, 19 and 23 [respectively: access, parking, surface water and foul sewage drainage, surface water mitigation, ecological enhancement, construction environment management plan (CEMP) and ground conditions assessment], of the same approval and the discharge of Clauses 2.1 to the Second Schedule and 2.1 to the Fourth Schedule [affordable housing scheme and training and skills plan, respectively of the accompanying Section 106 planning obligation agreement.
- 2.5. The conditions of the outline permission cannot be discharged under this reserved matters application and must be done via a separate, discharge of condition application. The same applies to clauses of the Section 106 agreement. In the case of conditions 17 and 18 of the outline consent these require the submission of details as part of the Reserved Matters and so can and should be assessed here. The conditions of the outline permission cannot be discharged under this reserved matters application, but if the details are considered acceptable those details would form part of any approval.

### 3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
02/01009/F	Erection of stable and hay barn and a manège and track to existing access	Application permitted
05/01468/F	1 no. bungalow with associated access and re-site existing stables	Application refused
06/00712/OUT	OUTLINE application for 5 No. detached dwellings, two terraces of 6 No. dwellings for affordable housing. New access, screened parking and amenity area	Application Refused Appeal Dismissed
17/02394/OUT	Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road	Application Refused Appeal Withdrawn
19/00963/OUT	Outline planning permission for up to 40 dwellings with vehicular access off Berry Hill Road	Application Refused Appeal Allowed
	Appealed under APP/C3105/W/20/3255419	Allowed

### 4. PRE-APPLICATION DISCUSSIONS

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

## **5. RESPONSE TO PUBLICITY**

5.1. This application has been publicised twice by way of a Site Notices displayed near the site (original and revised proposals), ultimately expiring **6<sup>th</sup> November 2022**, by advertisements in the local newspaper ultimately expiring **7<sup>th</sup> November 2022** and by letters sent to Ward Councillors, statutory consultees and properties adjoining the application site that the Council has been able to identify from its records, with a final expiry date of **31<sup>st</sup> October 2022**. The overall final date for comments was **7<sup>th</sup> November 2022**.

5.2. The comments raised by third parties, including the West Adderbury residents Association (5 comments) and the residents from 10 local properties who submitted 30 additional separate representations have been sub-divided into two sections – those submitted in response to the original proposals (21 reps from West Adderbury Residents Association and the occupants of 8 neighbouring properties); and those submitted in response to the revised proposals (a further 14 reps from the Residents Association and 8 neighbouring properties, including 2 who had not commented on the original proposals). They are all summarised as follows:

### **Objections to original plans:**

- Allegations that development works had commenced in advance of any discharge of pre-commencement conditions attached to the appeal consent, including no approved CEMP (Cond.19);
- Insufficient detail provided to satisfy pre-commencement conditions and justify any reserved matters consent, particularly in respect to the discharge of conditions 1 (appearance, landscaping, layout and scale), 4-5 (highway access), 11-14 (drainage, ecology and trees), 17 (landscaping) and 19 (CEMP);
- A greater landscape separation required between existing properties ('Last House', 'Shaldon' and 'Three Spires') and proposed properties along the western edge of the application site;
- Clustering of affordable dwellings in SW corner of site;
- Unsympathetic / uncharacteristic design;
- Provision of adult gym equipment needed alongside proposed children's play facilities;
- Need for and urbanising effect of providing a 2.4m-wide path/cycleway alongside Berry Hill Road in front of the site. If it has to be provided, would it not be better on opposite side of road and narrower?;
- Alleged none or lack of consultation with developer over proposed CEMP;
- Proposed location for the temporary construction access too close to existing properties;
- Proposed location for site compound too close to horse manège;
- Maintained 'In principle' objection to development on grounds of suggested harm to highway safety, impact on conservation area and heritage assets, loss of green fields, land drainage and character grounds, notwithstanding the grant of outline planning permission at appeal, which was deemed a result of Council incompetence in not maintaining a 5-year supply of housing land;

Following receipt of these objections, the applicant met with the Parish Council and then with the Residents Association and a group of local residents on 17<sup>th</sup> May and suggested they were willing to consider potential amendments, subject also to the views of statutory consultees. Following receipt of statutory consultee responses during July/August, the applicant submitted amended proposals on 2<sup>nd</sup> September.

**Objections to revised plans:**

- Despite amendments to the proposed layout, which were broadly supported as 'improvement', the CEMP had not been properly amended and residents' amenities were being harmed by pre-commencement investigative works – [archaeology and drainage];
- Some respondents felt that the widened landscape/ecology corridor along the western boundary with 'Last House', 'Shaldon' and 'Three Spires' was still too narrow, although the immediate neighbours were appreciative of the changes;
- The revised CEMP addendum lacks detail of proposed consultation and communication process with local residents, as required by Cond.19 of the appeal consent. Developer consultations/meetings with the Parish Council have not involved local residents, or the Residents Association;
- The proposed detailed designs for a proposed 2.4m-wide footpath/cycleway (as referenced in the Highway S38 and S.278 reports) which would narrow to 2m at the Horn Hill Road/Milton Road junction to the west have not been discussed/agreed with neighbouring residents, which is a particular concern in respect to how existing driveway accesses will be affected. The verge is also narrower than the proposed pathway in some locations, so could not be fully delivered, and would affect bus stops;
- Creation of the proposed pathway would force some parked cars at existing properties off the verge and onto the roadway, which is a busy road and bus route;
- Amended CEMP is 'a step in the right direction' but neither the developer nor OCC Highways have met/consulted with affected residents;
- Pre-commencement archaeological investigation works caused dust pollution to the two nearest neighbours and resulted in the creation of obtrusive dirt mounds during the works;
- Proposed affordable housing is still too clustered and should be relocated further away from existing properties;
- Alleged importation of stone hardcore to site and use of heavy vibrating compactor in advance of any reserved matters consent, which is more than pre-commencement activity and represents a start of construction, contrary to the terms of the outline appeal consent.

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

5.4. In response to claims of failing to communicate with local residents, the applicant provided details of meetings with the Parish Council, Residents Association and some residents and subsequent email exchanges with West Adderbury Residents Association and the 36 individuals that make up that organisation that took place between 5<sup>th</sup> September and 24<sup>th</sup> October 2022.

- 5.5. In response to the claims of an unauthorised start to development, the applicant wrote confirming that permitted pre-commencement archaeological investigative work had, *'loosened a large area of soil within the site' [and] compaction and densification of the sub soils [was required] to ensure they are sufficiently load-bearing prior to development works commencing'*. The applicant further stated that the agreed *'S106 attached to the outline planning consent states that "remedial work in respect of any contamination or other adverse ground conditions" is specifically identified as an operation which is excluded from the definition of operations which would constitute "commencement of development". Therefore, the enabling works proposed, do not constitute commencement of development.'*
- 5.6. The Chairman of the West Adderbury Residents Association responded to the views expressed by the applicant in a further response dated 25<sup>th</sup> October stating that works undertaken on site were not 'remedial' since they involved excavation of thousands of tonnes of subsoil and topsoil and their replacement with thousands of tonnes of recycled hardcore that has then been spread, levelled and compacted.
- 5.7. The Council's Enforcement Officers have visited the site on numerous occasions to check on the works undertaken and most recently advised the Residents Association on 25<sup>th</sup> October that: *"the LPA remains of the same opinion that the site-wide ground enabling works are being carried out prior to the implementation of the planning permission. The works are remedial works which are excluded from the definition of operational and as such do not constitute commencement of the development"*. Officers continue to monitor the site.

## 6. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. Adderbury Parish Council – **no objections but comments** that: houses should be built in natural rather than reconstituted stone; a larger gap and more landscape screening should be provided than was originally proposed between the new development and neighbouring houses 'Last House' and 'Shaldon'; views from those properties towards the church spire should be retained; affordable housing should be allocated to existing or former Adderbury residents with particular needs; adult gym equipment should also be included alongside children's play equipment in the proposed children's play areas; the layout should accord with the previous appeal Inspector's recommendations; the developer's site office should be positioned as far as possible from existing residents; construction traffic should enter the site at the far eastern end to minimise disruption to local residents; and the pedestrian and cycle entrance way proposals were specifically supported.

### OTHER CONSULTEES

- 6.3. OCC Highways – **Objects** to some of the proposed details – more covered cycle parking and visitor parking needed but less other car parking spaces needed. There should be 2m-wide footways either side of roads where there are properties on both sides and swept path analysis plans needed for refuse vehicles. Various conditions of approval suggested.
- 6.4. OCC Local Lead Flood Authority – **Comments** that condition 11 of the outline permission needs to be discharged prior to commencement of development.

- 6.5. OCC Archaeology – **comments:** the approved archaeological investigative works need to be undertaken in accordance with the WSI prior to commencement of development. The works subsequently carried out accorded with the WSI, but the report of findings has yet to be submitted. Conditions attached to the outline consent still apply and as such there is no necessity to attached further requirements at this reserved matters stage.
- 6.6. CDC Ecology – **Comments** that the Ecological Management Strategy largely fulfils the role of a CEMP for biodiversity and the measures outlined are appropriate for the purpose. They would however wish to see a greater number of bat and bird boxes incorporated into the fabric of the dwellings. The proposed landscaping and layout are considered acceptable from an ecological perspective. There is no Biodiversity Impact Assessment currently shown following development of the proposed layout to demonstrate biodiversity net gain. This can be addressed through condition.
- 6.7. CDC Landscape – **Comments** that the spine road could be realigned to facilitate greater views through development towards the church spire. Proposed native tree planting was acceptable but suggested widening highway verges/landscape strips to enhance landscape appearance/biodiversity. The western landscape boundary should be widened/enhanced from its original form to preserve the setting of 'Last House' [subsequently proposed in the revised submission]. Tree planting and protection measures suggested that could be addressed through condition and informative notes. Play area/LAP should be on flat ground and could be relocated and suggestions made on the form, design and content, which could be conditioned. Further suggestions made in respect to swales, landscape management and maintenance, which can also be addressed through conditions.
- 6.8. CDC Leisure & Recreation – **Comments:** Proposed LAP Play Area needs to be level and signposted. The proposed revised types of play equipment are deemed acceptable. Various details need to be provided, which can be addressed through conditions and informative notes – trees, shrubs, fencing, bins, the 1:4 gradient of the Basin Section may require a catch drain.

## 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
- SLE4 – Improved Transport & Connections
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport & Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating & Adapting to Climate Change

- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection & Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- Villages 2 – Distributing Growth Across the Rural Areas
- Villages 4 – Meeting the Need for Open Space, Sport & Recreation

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

- C8 – Sporadic developments in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- C33 – Retention of undeveloped gaps
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

#### ADDERBURY NEIGHBOURHOOD PLAN

- AD6 – Managing Design in the Conservation Area and its Setting Church Quarter
- AD7 – Managing Design in the Conservation Area: The Green
- AD8 – Managing Design in the Conservation Area: The Manors
- AD9 – Managing Design in the Conservation Area: The Streets
- AD10 – Managing Design in the Conservation Area: The Lanes
- AD11 – Managing Design in the Conservation Area: The Valley
- AD12 – Managing Design in the Conservation Area and its Setting
- AD13 – Managing Design in The Crescent (see also AD17)
- AD17 – Building and structures of local importance
- AD14 – Managing Design in Banbury Road
- AD15 – Managing Design in the Twyford Estate
- AD16 – Managing Design in Berry Hill Road and St. Mary's Road

#### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)

## **8. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Infrastructure provision

#### Principle of Development

8.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

- 8.3. The Development Plan for Cherwell includes the CLP 2015, the saved policies of the CLP 1996 and a number of adopted Neighbourhood Plans. Relevant to the consideration of this application is the Adderbury Neighbourhood Plan 2014-2031 (“ANP”), which was ‘made’ on the 16 July 2018 following a referendum held on the 21 June 2018. It therefore forms part of the Development Plan and is material in the consideration of planning applications in the Parish of Adderbury.
- 8.4. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and is not previously developed other than the current stables. The site sits outside the built-up limits of the village beyond the defined Adderbury Settlement Boundary as set out in the Adderbury Neighbourhood Plan 2014 – 2031.
- 8.5. However, the grant of outline planning permission at appeal in September 2021 (Ref: APP/C3105/W/20/3255419) following the refusal of application 19/00963/OUT is a material consideration. The Inspector concluded at paragraph 18 of his decision letter that the proposed residential development of the site for 40 dwellings would not be entirely suitably located and not fully accord with Development Plan policies ESD1, SLE4 and Villages 2 in the 2015 Local Plan nor saved policies C8, C27, C28 and C33 in the 1996 Local Plan. Nevertheless, the Inspector went on to conclude at paragraph 31 of his decision letter that *“the proposed development would make acceptable provision for local infrastructure, highway safety, affordable housing and future on site future maintenance arrangements. As such, the proposal would not conflict with Policies INF1, PSD1, BSC2, BSC9, BSC11 and ESD 7 of the Local Plan.”* Overall and on the planning balance, given the absence of a deliverable 5-year housing land supply and the engagement of NPPF paragraph 11d, the Inspector concluded at paragraphs 42 and 43 of his decision letter that: *“The adverse impacts of the proposal would be moderate in terms of locational suitability and the impact on the area’s character and appearance. These moderately adverse impacts would not significantly and demonstrably outweigh the substantial totality of planning benefits, when assessed against the policies in the Framework taken as a whole. As such, the proposal benefits from the presumption in favour of sustainable development. I find that this consideration is of sufficient weight to indicate that planning permission should be granted, notwithstanding the conflict with the development plan.”* In such circumstances and with an extant outline planning permission on the land, the principle of development is acceptable.

#### Design and Layout

- 8.6. Policy ESD15 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets. The NPPF is clear that good design is a key aspect of sustainable development.
- 8.7. The reserved matters application is accompanied by a detailed layout plan (modified from its original form to address concerns initially raised), landscape proposals, details of all the housing types and their design, highway plans and a Design Statement (DAS). The application is also accompanied by other supporting documentation including a Ground Investigation Report, Training & Skills Plan, Air Quality Assessment, CEMP, Ecological Enhancement Strategy, Flood Risk Assessment, Arbs Method Statement, Landscape Management & Maintenance Plan and Affordable Housing Scheme. Taken together, these documents and plans demonstrate that the development proposed can be appropriately accommodated and designed so that high design standards can be achieved. It is noted that a number of these documents are submitted in support of discharge of the conditions

of the outline planning permission and, as noted above, these conditions cannot be discharged under the Reserved Matters application and require the submission of a separate, discharge of conditions application.

- 8.8. The previous appeal Inspector noted the varied design styles and material finishes of existing housing in Berry Hill Road and concluded in paragraph 26 of his decision letter that the proposal as originally envisaged *“would have the spatial personality and presence to ‘hold its own’ as a new ‘end stop’ to the south-eastern end of the built-up area of the village, without detracting from the evolved architectural character of the village’s more recent residential areas, and the historic character of the village’s historic core within the Adderbury Conservation Area located some distance to the north”*.
- 8.9. The applicant’s original layout proposed a very narrow landscape strip along the western site boundary with neighbouring ‘Last House’ and ‘Shaldon’, which both have an array of windows facing southeast across the application site from their side elevations. The original layout also featured proposed dwellings quite close to mature trees along the southern site boundary with Berry Hill Road and only afforded a single view from the proposed eastern access road towards the spire of the listed church in the centre of Adderbury. In response to criticisms from neighbours, the Parish Council, Residents Association and CDC Landscape, as well as Planning Officer criticisms of that layout, the applicant was encouraged to submit revised plans.
- 8.10. The Rev V revised layout would afford views from the proposed access road into the development and along a spine road leading north from a new pedestrian/cycleway access from Berry Hill Road towards the spire of the listed church in the centre of Adderbury’s conservation area. Views towards the church spire will also be retained from the proposed Public Open Space and LAP areas, in the northern half of the application site.
- 8.11. The positioning of proposed houses on Plots 1 - 14 is now more reflective of those existing in Berry Hill Road, with properties facing towards the road, with gardens to the rear and separation with the retained frontage trees would maintain their continued protection and the semi-rural character of the road frontage on Adderbury’s south-eastern edge.
- 8.12. Insofar as housing designs are concerned, the applicant proposes 26 open market dwellings, a range of single-storey, 2-bedroom bungalows and two-storey 3, 4 and 5-bedroom detached and semi-detached houses, and 14 affordable dwellings which comprise a mixture of 1, 2 and 3-bed two-storey properties. The affordable dwellings would be located along the southern and western edges of development.
- 8.13. In terms of housing mix, the Council’s strategic housing team has not been consulted as part of the current application, but the affordable housing mix for the development is subject of the Section 106 agreement accompanying the outline permission and obligations within it require separate discharge. It is noted that the mix proposed as part of the RM application is 4x 1 bed flats, 7x 2 bed dwellings and 3x 3 bed dwellings.
- 8.14. The dwellings are proposed in a mixture of red brick and reconstituted Bekstone, with grey or dark red Marley roof tiles. There is homogeneity in these materials between the open market and the affordable dwellings. The garages would be constructed in combinations of red brick and dark-grey weatherboarding.
- 8.15. The Cherwell Residential Design Guide sets out that a simple, consistent palette of walling materials will be required, that red brick is acceptable, that stone would need

to be natural stone not reconstituted stone, and that natural stone would be expected on 60% of the dwellings in locations such as this on the edge of a village but outside of a conservation area. The Design Guide also states that, “the use of materials should generally be consistent so that the building line reads as a single element framing the public realm” and that, “a building must be constructed in a single walling material to all elevations, a mix of materials not acceptable...” It also states that garages and outbuildings must be constructed in the same material as the main property.

- 8.16. The current proposals conflicts with the Design Guide in all of these respects – only 8 of the 40 dwellings are proposed to be in stone; those dwellings are proposed as reconstituted stone; the use of the stone would be pepper potted and numerous dwellings are proposed in a mix of materials; and garages are proposed in a different facing material to the dwelling which they would serve.
- 8.17. Rather than refuse the application, it is considered that conditions may be reasonably used to make the development acceptable. The applicant is advised that the Council would be seeking 60% of the dwellings to be externally faced in natural stone, and that these should be Plots 1-14, 22-24, 30-35 and 40 (this would equate to 24 or 60% of the 40 plots).
- 8.18. Some residents were critical of the proposed clustering of affordable housing towards the south-western edge of the development and suggested more pepper-potting or relocation to the eastern side of the site. Registered Providers of Affordable Housing are not keen on pepper-potting affordable homes because it makes long-term maintenance more difficult and in the case of schemes of this size there is no planning policy basis upon which to require the relocation of the affordable homes beyond their current proposed location fronting three of the proposed roads.
- 8.19. Detailed landscaping plans have been submitted as required by conditions 17 and 18 of the outline consent and subject to conditions the Council’s landscape officer raises no objection. There is the use of trees along the main roads through the site which complies with the NPPF requirement for tree lined streets.
- 8.20. All dwellings would have sufficient levels of parking, in some cases excessive levels (plots 1, 19, 25, 31, 32 and 33 would have six spaces, plots 2, 4, 30, 34 and 35 would have four spaces, whereas the requirement is for 2-3 spaces); in several cases there are parking spaces of substandard dimension but in most cases these are tandem spaces where others for the same dwelling are in excess of the required dimension suggestive of poor drafting rather than lack of space.
- 8.21. Overall, subject to conditions as noted above, the proposed design and layout for the proposed forty dwellings would be acceptable, in accord with Development Plan policies, national guidance given in the Framework and the design parameters established in the Inspector’s decision letter at outline stage.

#### Residential Amenity

- 8.22. Policy ESD 15 of the CLP 2015 requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 8.23. The Rev V layout now proposes an 8.3m-wide landscaped belt all along the western side boundary and the repositioning of dwellings on Plots 11-14 and 37-40 so that they are no longer in direct line with the windows in the existing houses and the separation distances have been increased. Plots 38-40 have all been moved 10m in

a northerly direction, so they are no longer in direct view from windows in 'Last House' and 'Shaldon', and the separation distances at the closest points between 'Last House' and Plot 40 would be 14m and with Plots 11-14 would be c.32m; and between 'Shaldon' and Plot 39 would be c.27.6m; and between 'Three Spires' and Plot 37 would be 30.4m. Such separation with these 2-storey proposed dwellings, coupled with the intervening screen landscaping and the repositioning of the new dwellings would ensure appropriate safeguarding of residential amenities and has been acknowledged as such in the comments received from the occupants of those properties to the revised proposals. Given the separation distance between 'Last House' and Plot 40 would be 14m rather than 22m, the west-facing first floor bedroom window to Plot 40 (a secondary window – the bedroom is served by another windows) would need to be obscurely glazed – this would be subject of a condition of any consent given.

- 8.24. The separation distances between the proposed properties in the scheme are also considered to be acceptable and would generally comply with the standards in the SPD. In some cases the relationships are somewhat uncomfortable, e.g. there would be overlooking from first floor windows in Plot 35 of the garden to Plot 36, and the separation distances between the rear elevations of Plots 8-10 and 17-18 do not meet the 22m set out in the Council's SPG – the same is true of the distance between Plots 4-6 and 20-21, and between Plots 2 and 3. It is considered that tree planting can be used to mitigate the impacts and overall, on balance, the proposals would be acceptable in this regard subject to a condition requiring said additional tree planting and conditions to restrict permitted development rights in most cases.
- 8.25. The size of the dwellings and garden sizes are considered to provide a good standard of amenity for future residents.
- 8.26. All single garages are proposed with left-to-right ridge lines. In some cases (e.g. Plot 3), this would have the effect of causing overshadowing to rear gardens; again this can be addressed through a condition to require revised plans for the roof forms of the garages (this applies to Plots 3, 5, 17, 18, 19, 28-29 and 33).
- 8.27. Although it cannot be approved under the Reserved Matters consent, it is noted that the updated CEMP and its addendum now provide for site storage and vehicle compounds far from existing properties, towards the eastern edge of the development, now that the former stables have been removed. Compliance with the CEMP should ensure appropriate preservation of residential amenities during the construction period. Whilst some residents and the Residents Association have complained about the level of communication that has taken place between the developer and themselves, the LPA is satisfied that communication has taken place with the Parish, Residents Association and local residents and the proposals have been modified in the final form of CEMP now proposed to address criticisms raised. Whilst not all resident concerns have been addressed to their satisfaction, the LPA has to be reasonable to all parties in its consideration of proposals and the requirements in any CEMP need to be commensurate with the level of development proposed. In this instance, while not forming part of this RM approval, Officers are satisfied that the CEMP proposals are satisfactory and would maintain residential amenity protection throughout the development period.

#### Conditions

- 8.28. As noted earlier in this report, the applicant wishes to discharge a number of conditions through this application. However, given this is a separate application to the outline, and a Reserved Matters application and not an application for planning permission, those conditions cannot be discharged here, but would require the submission of a separate, discharge of conditions application.

- 8.29. The conditions of the outline permission which remain applicable are numbers 5, 7, 8, 9, 11, 12, 13, 14, 16, 19, 20, 21 and 23, which require the submission of a discharge of condition application, as well as statement conditions numbered 4, 6, 10 and 15.
- 8.30. Concerns raised by residents with respect to further off-site works along Berry Hill Road, Milton Road and Horton Hill Road, which form part of Oxfordshire County Council's wider planned highway improvement works in the vicinity are not part of the reserved matters application consideration and will instead be a matter for consideration by the Highway Authority in its implementation of planned works pursuant to the legal agreements forming part of the outline planning permission.
- 8.31. Insofar as this application is concerned, the developer will be providing all that is required under the terms of the original outline planning permission and its associated S106.

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

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The reserved matters proposals accord broadly with Development Plan policies and where there is slight divergence the previous appeal Inspector determined that the balance of benefits associated with the housing development outweighed any light harm caused and any divergence from policy.
- 9.3. The detailed proposals now submitted by the applicant (as revised) are acceptable in principle and, subject to conditions, would create a sustainable and satisfactory design and layout, would preserve existing residential amenities and provide reasonable amenities for future residents and the infrastructure provision proposed accords with previous agreements and obligations.
- 9.4. Accordingly, it is recommended that reserved matters permission be granted for the appearance, landscaping, layout and scale of development proposed.

## **10. RECOMMENDATION**

That permission is granted, subject to the following:

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

P21-2984-08 Rev I – Site Location Plan  
P21-2984-01 Rev V – Site Layout Plan  
P21-2984-02 Rev K – House Type Pack  
P21-2984-09 Rev B – Street Scenes  
22021-Bgc D PI02 Rev B – Levels Strategy Plan – Sheet 1  
22021-Bgc D PI03 Rev B – Levels Strategy Plan – Sheet 2  
P21-2984-06 Rev B – Boundary Treatments Plan  
P21-2984-05 Rev D – Materials Plan  
P21-2984-04 Rev B – Building Heights Plan  
HAY-23648-15 – Basin Section Plan  
HAY-23648-11-1 Rev A – Landscape Proposals – Sheet 1

HAY-23648-11-2 Rev A – Landscape Proposals – Sheet 2  
HAY-23648-11-3 Rev A – Landscape Proposals – Sheet 3  
HAY-23648-20 Rev B – LAP Proposals  
HAY-23648-03 Rev A – Tree Protection Plan  
22021-Bgc D PI07 Rev B – Extent of Highway Adoption Plan  
22021-Bgc D PI06 Rev B – Drive Swept Path Plan – Fire Tenders  
22021-Bgc D PI05 Rev B – Drive Swept Path Plan – Refuse Vehicles  
22021-Bgc D PI04 Rev B – Highway Longitudinal Section  
Soft Landscape Management & Maintenance Plan Rev A  
Soft Landscape Specification Rev A (excluding toxic Euonymus shrub)

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

2. Notwithstanding the details submitted, no development shall commence above slab level unless and until a revised schedule of materials and finishes to be used externally in the walls and roofs of the dwellings and garages has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason : To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. No development shall commence above slab level on any dwelling to be constructed of natural stone until a natural stone sample panel (minimum 1 sq m in size) has been constructed on site and inspected and approved in writing by the Local Planning Authority. Thereafter, all of the external walls of the dwellings to be faced in natural stone under the details agreed pursuant to the requirements of Condition 2 of this permission and their garages and their perimeter means of enclosure under the details agreed pursuant to the requirements of Condition 5 of this permission shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel and shall be retained as such thereafter.

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

4. Notwithstanding the details submitted, and prior to the construction of any dwelling above slab level, full details of the architectural details of the dwelling(s) and garages, including windows (including material, colour and recess from brick/stone face), doors, heads, cills, lintels, eaves and verges shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure and retain the satisfactory appearance of the completed development and in the interests of the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1,

saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Note: All casement windows should have balanced casements with even sightlines. True sash windows should be provided. Glazing bars should be true glazing bars or external glazing bars

5. Notwithstanding the details submitted, no development shall commence above slab level until full details of the boundary treatments to the site and each plot, including the appearance and details of the materials (including details of the stone and coursing), have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments and means of enclosure shall thereafter be provided in accordance with the approved details prior to the first occupation of any dwelling they serve and shall be retained as such thereafter.

Reason: To protect the character and appearance of the area and provide a safe and durable development in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. Notwithstanding the details submitted, no development shall commence above slab level until revised plans have been submitted to and approved in writing by the Local Planning Authority to show amended roof forms for certain garages across the development, namely those serving Plots 3, 5, 17, 18, 19, 28-29 and 33. The development shall not be carried out other than in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and the living conditions of future occupiers and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Swept path details for an 11.6m refuse vehicle shall be provided to demonstrate that vehicles will not overhang the footways. Such details must be approved in writing by the Local Planning Authority before the commencement of development above slab level and shall thereafter be constructed in accordance with the approved details.

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. OCC Highways guidance states that 'potential for conflict with pedestrians should be avoided'.

8. The LAP play area hereby approved shall be level and a stable sign supported by steel frame with two posts shall be erected at one entrance to the LAP. The sign shall contain the name of the play area, the developer's contact details/telephone number in case residents need to contact them to report on vandalism or accident and a 'No Dogs' symbol. The development shall not be occupied unless and until fencing and gate details for the LAP play area have been submitted to and approved in writing by the Local Planning Authority and have thereafter been implemented in accordance with the approved details. The development shall be retained as such thereafter.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

9. Provision must be made for tree planting within highway verges to improve amenity, microclimate and mitigate heat island effect. Root deflectors to be installed to protect kerbs and hard surfaces. All trees are to be planted and maintained and watered in accordance with BS 8545:2014 Trees.

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.

10. Notwithstanding the details submitted, prior to the first occupation of the development hereby approved revised landscaping plans shall be submitted to and approved in writing by the local planning authority to show additional tree planting between certain plots.

The hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of the development and shall be retained as such thereafter.

All planting, seeding or turfing comprised in the approved details of the soft landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the commencement of development or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. Notwithstanding the details submitted, the development shall not be occupied unless and until an updated Biodiversity Impact Assessment has been submitted to and approved in writing by the Local Planning Authority. The approved biodiversity net gain measures and habitat creation shall be implemented in accordance with the approved details prior to the first occupation of the development unless an alternative timescale is agreed by the Local Planning Authority as part of that Biodiversity Impact Assessment and shall be maintained as such thereafter.

Reason: For the avoidance of doubt, to maintain and improve biodiversity, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

12. Before each respective dwelling is first occupied all first floor openings on side and/or rear elevations shown in the plans listed in Condition 1 of this permission to serve bathrooms and/or en suite bathrooms shall be glazed with obscure

glass (at least Level 3) only and, unless fixed shut, fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

13. Before each respective dwelling is first occupied the west facing first floor windows to Plot 1, the south facing first floor windows to Plot 33 and the west facing first floor bedroom window to Plot 40 shall be glazed with obscure glass (at least Level 3) only and fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), and with the exception of the rear elevations to Plots 30, 31 and 32, no additional windows, doors or any other openings shall be inserted at first floor level or above in the development hereby permitted, without the grant of further specific planning permission from the Local Planning Authority.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), and with the exception of Plots 30, 31, 32 and 34 in respect of Class A development other than under A.1(g), no development within Schedule 2, Part 1, Classes A - E (inclusive) shall take place on the dwellinghouses hereby permitted or within their curtilage without the grant of further specific planning permission from the Local Planning Authority.

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

16. Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification),

no walls, gates, fences or planting shall be erected or allowed to grow on or adjacent to the highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

Reason: To afford adequate visibility at the access/junction and to cater for the expected volume of traffic joining the existing highway network and in the interests of highway safety, and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. In the case of those plots to be externally faced in brick as amended by the conditions of this permission, the brick headers to those plots shall be constructed only using the same brick as the main walls to that respective plot.

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. Notwithstanding the details submitted, there shall be no fascias and/or bargeboards used or erected on any dwelling or garage in the development, and notwithstanding details submitted chimneys shall be added to the roofs of all dwellings in the style and design of those that are shown on the approved plans.

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

19. The development shall not be carried out other than in accordance with the details of existing and proposed ground and finished floor levels shown in drawings "22021-Bgc D PI02 Rev B – Levels Strategy Plan – Sheet 1" and "22021-Bgc D PI03 Rev B – Levels Strategy Plan – Sheet 2"

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and surrounding countryside and the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Informative Notes to Applicant:

As part of the details required by condition 13 of the outline planning permission, a scheme for the provision of bat/bird boxes shall be provided, including their precise form and location. These will be best clustered and should be integrated into the fabric of the buildings.

The proposed on-site highway works will need to comply with OCC Highways Street Design Guide and proposed off-site highway works will need to be designed in accordance with Design Manual for Roads & Bridges (DRMB).

Where the section of 1:20 longitudinal gradient is present the Local Highway Authority require flat landing spots to be provided for every 500mm that a pedestrian route rises.

The adjacent highway Berry Hill Road and the surrounding grass verges are maintained by OCC Highways Authority. A Section 278 and a Section 104 agreement will be required to create a new access and to make amendments to the grass verge respectively.

OCC Highways Authority require that all new development will need a 20mph speed limit and supporting Traffic Regulation Order and self-enforcing measures. The carriageways that are straight for >70m will require some form of traffic calming to ensure vehicle speeds are <20mph.

OCC Highways Authority require that where there is not a footway adjacent to the carriageway, a 6m-wide shared surface block paved carriageway with a minimum 800mm grass margin on either side is required.

OCC Highways Authority noted that a long section has not been provided as part of the application submission and will be required to ensure compliance with the Equalities Act 2010. This must include details of the vertical alignment to determine appropriate carriageway and footway gradients. They will need to be DDA compliant, i.e., a maximum 1:21 or 5%.

OCC Highways Authority require that junction and forward visibility splays and dimensions are provided in accordance with the OCC Street Design Guide and dedicated to OCC if they fall out of the existing highway boundary.

OCC Highways Authority require that no private drainage is to discharge onto any area of existing or proposed adoptable highway. The drainage proposals will be agreed at the Section 38 Agreement stage once the drainage calculations and detailed design are presented. OCC has published the '*Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire*' to assist developers in the design of all surface water drainage systems, and to support LPAs in considering drainage proposals for new development in Oxfordshire. The guide sets out the standards that are applied in assessing all surface water drainage proposals to ensure they are in line with National legislation and guidance, as well as local requirements.

OCC Highways Authority require that foul and surface water manholes should not be placed within the middle of the carriageway, at junctions, tyre tracks and where informal crossing points are located.

OCC Highways Authority require that trees must not conflict with streetlights and must be a minimum 10m away and a minimum 1.5m from the carriageway. Trees that are within 5m of the carriageway or footway will require root protection.

OCC Highways advise that the visitor parking bays parallel to the carriageway, can be adopted but accrue a commuted sum. Any other bays (echelon or perpendicular) or private bays will not be considered for adoption.

No highway materials, construction methods, adoptable layouts and technical details have been approved at this stage. The detailed design and acceptable adoption standards will be subject to a full technical audit by OCC Highways.

OCC Highways require saturated CBR laboratory test on the sub-soil likely to be

used as the sub-formation layer. This would be best done alongside the main ground investigation for the site, but the location of the samples must relate to the proposed location of the carriageway/footway.

CDC Landscaping advise that some of the trees have been relocated in the revised plans to allow for better on-site surveillance, however two Prunus avium still follow the alignment of the outer path shown in the original plans. As this is a round-headed variety, it may block views into the play area (where the seesaw and springboard are to be located) and so the tree to the more SW location would be better located to the far side of the play area, possibly between the Quercus and Malus. They also advise that the proposed Euonymus shrub can be toxic, and it would be preferable to replace it with an alternative species. CDC Landscape request that the proposed seating within the play area be a hardwood option and that two not one bin are included in the LAP, both with seagull flaps to contain rubbish.

Case Officer: Andy Bateson

DATE: 10<sup>th</sup> November 2022

Checked By: Nathanael Stock

DATE: 11.11.2022

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