

APPLICATION NO.	P18/V2931/FUL
SITE	Land to the rear of 10 Halls Close Drayton Abingdon, OX14 4LU
PARISH	DRAYTON
PROPOSAL	Removal of condition 14 (age restricted units) - on application ref. P15/V2077/O
WARD MEMBER(S)	Stuart Davenport
APPLICANT	Blue Cedar Homes Limited
OFFICER	Charlotte Brewerton

RECOMMENDATION

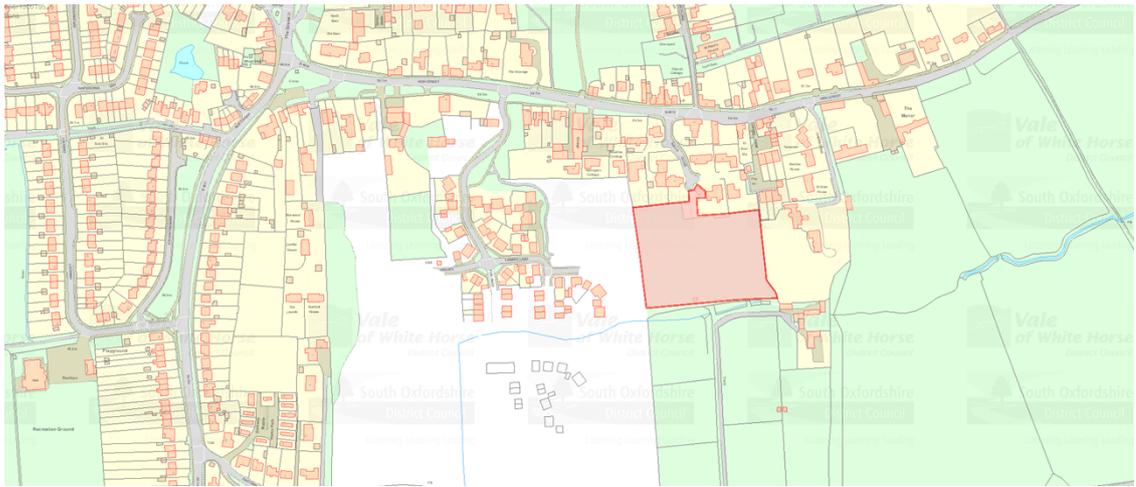
It is recommended that condition 14 is removed and that the application is approved subject to the conditions which are listed at the end of this report.

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This application is presented to planning committee as it has been called in by Councillor Davenport and because Drayton Parish Council object.
- 1.2 Outline planning permission for 28 dwellings was granted following an appeal against this council's decision to refuse planning permission. In allowing the appeal the Planning Inspector imposed condition 14 which places an age restriction on the occupancy of 11 of the permitted dwellings. Condition 14 states:
- 1.3 *The 11 Dwellings hereby permitted that form part of the retirement element to the scheme shall only be occupied by persons:*
- a) *Aged 60 or over;*
 - b) *Living as part of a single household with such a person or persons;*
 - c) *Who were living as part of a single household with such a person or persons at the property who have since died.*
- 1.4 This application seeks to remove condition 14 which would allow unrestricted occupation of the dwellings. The applicant explains that this is due to considerable uncertainty in the housing market and needing more flexibility.
- 1.5 The site lies within the village of Drayton, is approximately 1 hectare in size and is located to the South of Halls Close, a cul-de-sac development of 10 houses. The site has the appearance of a paddock, generally flat and open in nature. Ground works to the site started in October 2018. Access is via the

side of number 10 Halls Close. Whilst the access is located within the Conservation Area the site itself is not.

- 1.6 The site lies within the Lowland Vale landscape designation and also within Flood Zone one, the area at least risk of fluvial flooding.
- 1.7 There are residential properties to the north and east of the site. Directly south lies Little Smith Farm and to the west and southwest lies a housing development nearing completion of 140 dwellings.
- 1.8 A location plan showing the site in it local context is provided below:



2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

A summary of the responses received to the application are included in the table below:

<p>2.1 Drayton Parish Council</p>	<p>Object</p> <ul style="list-style-type: none"> • Existence of this provision in the original application was material in the Planning Inspector’s decision to uphold Blue Cedar’s appeal. • Traffic safety • Increase in school age children on site and more funding required towards local schools • Loss of retirement homes provision in Drayton a need for which has been identified.
<p>Oxfordshire County Council Single Response</p>	<p>Highways – No Objection</p> <ul style="list-style-type: none"> • The previous legal agreements relating to the outline and reserved matters planning permissions are still applicable to the proposals.

	<ul style="list-style-type: none"> • Previous highways conditions remain valid. <p>Education – No Objection</p> <ul style="list-style-type: none"> • The signed S106 still applies and includes a matrix to allow for changes in composition of development. • This matrix should now be applied to all dwellings, should the age restriction be removed.
Urban Design Officer	<p>No Objection</p> <ul style="list-style-type: none"> • Many of the design issues that were raised back in early 2017 seem to have been addressed. • A more positive and well defined edge to the countryside could have been achieved by facing the development outwards towards the countryside. • A strong planting buffer should be provided to soften the impact of development and screening the hard boundary that would otherwise be created through the use of close-boarded fencing.
Housing Development	<p>No Objection</p> <p>No comments on affordable housing requirements or additional provision</p>
Local residents	<p>Five letters of objection have been received:</p> <ul style="list-style-type: none"> • Age restriction is an important factor in the inspector allowing the appeal • Age restriction does not add to load on village amenities as much as market dwellings do. • Increased traffic and poor junction visibility – safety concerns • Housing in Drayton has reached capacity • Area here already congested • Specialist housing seems key decision to approve this development • Identified need for this type of housing • Alter school age population of development and education requirements • Road to be privately maintained – all roads should be adopted

	<ul style="list-style-type: none">• Access extremely limited, garage at number 10 should be removed to improve access• Increase in families to market dwellings and increase in pedestrians needs pavements each side of access• Traffic predictions do not seem plausible
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3.0 RELEVANT PLANNING HISTORY

3.1 P18/V2086/DIS - Approved (26/10/2018)

Discharge of condition 6 - foul water drainage strategy on application ref. P15/V2077/O

3.2 P18/V1683/DIS - Approved (03/09/2018)

Discharge of condition 2 - Contamination Evaluation Report and 4 - Materials on application ref P17/V1225/RM.

3.3 P18/V1195/DIS - Approved (24/08/2018)

Discharge of conditions 5 - sustainable surface water drainage scheme, 8 - travel plan, 9 - archaeological investigation and 12 - details of vehicular access to the site and visibility splays on application ref. P15/V2077/O

3.4 P18/V1753/DIS - Approved (01/08/2018)

Discharge of condition 3 - Biodiversity Offsetting on application ref P17/V1225/RM.

3.5 P18/V1343/DIS - Approved (18/07/2018)

Discharge of condition 7 - Construction Traffic Management Plan and 10 - Archaeology Evaluation Report. On application P15/V2077/O.

3.6 P17/V1225/RM - Approved (19/04/2018)

Erection of 22 dwellings together with replacement garage for 10 Halls Close. As amended by plans and information received 19 July 2017; as amended by plans received 8 February 2018.

3.7 P15/V2077/O - Refused (27/01/2016) - Appeal allowed (02/11/2016)

Outline application on Land to the Rear of 10 Halls Close, Drayton to provide up to 28 no. dwellings with all matters reserved except access (As amended by Drawing No: 14.070.SK13 (Site Layout) accompanying agent's letter dated 2 November 2015)

4.0 MAIN ISSUES

4.1 The main planning considerations relevant to this application are:

1. The principle of removing or varying a condition
2. Condition 14 removal
3. Technical matters
4. Financial Contributions

4.2 The principle of removing or varying a condition

When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. New issues may arise after planning permission has been granted, which require modification of the approved proposals, and under Section 73 of the Town & Country Planning Act 1990 an application can be made to vary or remove conditions associated with a planning permission.

4.3 Removal of Condition 14

Condition 14 of planning approval P15/V2077/O states that:

The 11 dwellings hereby permitted that form part of the retirement element of the scheme shall only be occupied by persons:

- a) Aged 60 or over;*
- b) Living as part of a single household with such a person or persons;*
- c) Who were living as part of a single household with such a person or persons at the property who have since died.*

4.4 The appeal decision report states that *'In principle, a condition to control the range of the use that would be permitted in 11 of the proposed dwellings, including occupancy of those units as per the details set out in the planning application, would be necessary as the proposal has been assessed and considered on that basis. For instance, unconstrained use of those dwellings would be likely to increase the school-aged population of the development thereby altering the education requirements that would result from the development.'*

4.5 Oxfordshire County Council (OCC) as education authority has no objection given that the signed Section 106 (S106) Legal agreement included a matrix to allow for changes in the composition of development. This matrix calculates the required education contributions based on the number of dwellings in the development. This matrix would now be applied to all houses in the development and is index linked.

4.6 Having sought legal advice on this matter both OCC's Principal Infrastructure Funding Negotiator and Vale of White Horse Solicitor, both have confirmed that based on these comments all legal contributions have been caught under the original S106 and Unilateral Undertaking (UU) and therefore there is no need to require the developer to seek a Deed of Variation (DoV) as part of this application. All financial contributions, including the increase in education requirements have been secured. The removal of this condition will have no bearing on these financial obligations and mitigate for increased capacity at local schools.

4.7 Officers consider that the removal of Condition 14 does accord with Policies CP4, CP7, CP22, CP24 of Vale of White Horse Local Plan Part 1 and Policies P-H2 and P-H3 of the Drayton Neighbourhood Development Plan.

4.8 **Technical Matters**

4.9 Traffic and Road Safety

Concerns from neighbours have cited access arrangements, increase in traffic from an increased number of market dwellings and concerns over road safety for pedestrians.

4.10 The National Planning Policy Framework (NPPF) states that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

4.11 In the original outline application, the Technical Note (TN) submitted with the application was based on up to 28 dwellings. The inspector would have had regard to this information during the appeal. On submission of the Reserved Matters, the application was for 22 dwellings only. This site has planning approval for 22 dwellings in its layout and this does not change with the removal of Condition 14.

4.12 OCC Highways Officer has advised that *'the Technical Note (TN), submitted in support of the proposals consider the generation associated with up to 28 dwellings at the site, based on 11 affordable and 17 open market units, using trip rates agreed as part of the outline consent.'*

4.13 *'As a result, the TN has demonstrated that there would be an increase of approximately 4 and 3 trips within the AM and PM peak hours respectively, above that which was identified in the original scheme. However, it is noted that the number of dwellings at the site will be lower than those detailed within the TN, leading to a lesser increase in traffic'. In addition, in terms of car parking within the site, this will not be affected by the removal of this condition.*

4.14 There is no technical objection to the relatively minor changes in traffic movements on this site. The NPPF has advised that refusal should only occur where there would be severe traffic implications arising from development. This cannot be demonstrated by the removal of Condition 14.

4.15 All other technical matters regarding access, pavement provision, safety for pedestrians have been considered acceptable for up to 28 dwellings on this site by the Inspector at appeal. There would be no change to these elements and the access, and pavements remain safe for users.

4.16 Some local residents are concerned that the road serving the additional market dwellings is to remain private and could cause additional long-term problems within the site. The Highways Officer has no objection to this road remaining private road as considered on appeal. Officers conclude that there is no technical reason to alter this detail.

4.17 Removal of Condition 14 is in accordance with Policy CP7 and CP33 of the VOWH LPP1 and P-T1 of Drayton Neighbourhood Development Plan.

4.18 Residential Amenity

There would be no unreasonable impact on the living conditions of neighbouring dwellings including occupants of Halls Close. The Reserved Matters application found these details to be acceptable and as there would be no changes in design through the removal of condition 14 there would be no harmful impact upon residential amenity.

4.19 Drayton Parish Council have concerns that the requirement for elderly housing provision has not been met across other allocated sites within Drayton and the model, which was assessed on appeal, would have been a consideration in allowing this appeal.

4.20 Officers consider that the use of these dwellings as elderly accommodation only is not a prerequisite for allowing planning approval and removing condition 14 does not prevent elderly people from buying the dwellings. The principle of development on this site is acceptable in terms of its technical assessment at appeal. Furthermore, the reserved matters have assessed the details in terms of layout, appearance, landscaping and scale and given that these elements are not differing to that approved Officers find no reason to refuse based on the removal of condition 14.

4.21 Removal of condition 14 is in accordance with Policy CP37 of the VOWH LPP1 and saved policy DC9 of the LP 2011 and Policies P-LF2, P-LF3, P-LF4, PLF5, P-WP1, PH1 of the Drayton Neighbourhood Development Plan.

4.22 **Other technical matters**

Impacts arising from landscape and visual impact, impacts for the character or appearance of the conservation area and its setting, flood risk, biodiversity, housing mix, housing density and design were previously assessed in detail at both the appeal and reserved matters stage and were considered acceptable by the respective Inspector and Planning Officers. Officers consider the proposed removal of the condition would not result in any material change and the impacts for these matters remains acceptable.

4.23 Removal of condition 14 is in accordance with Policies CP1, CP2, CP4, CP7, CP37, CP38, CP39, CP44, CP45 and CP46 of the VOWH LPP1 and Policies P-LF2, P-LF3, P-LF4, P-LF5, P-LF6, P-WP1, P-H1, P-S1 of the Drayton Neighbourhood Plan.

4.24 **Financial contributions**

At the appeal a s106 agreement was executed by unilateral undertaking (UU) to provide for affordable housing and off-site financial contributions including education to mitigate for the impact of the development. No further financial contributions, other than those as stated within the signed UU, will be required.

4.25 This application was assessed prior to the adoption of CIL. There will be no increase in floorspace throughout the site and therefore the developer's contributions have been caught under the existing UU and the Council will not be seeking any further contributions.

5.0 **CONCLUSION**

- 5.1 The application has been determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 The Inspector imposed the original age restriction condition primarily over concerns that there would be impacts to the education requirements with the potential for more school age occupants of the dwellings. Oxfordshire County Council has confirmed that the matrix, set within the Signed S106, allows changes in composition of the development and that the matrix within the S106 can secure an uplift in education financial contributions to mitigate for the increase in school age occupants. This would now include the additional 11 dwellings to be changed increasing the education contributions therefore offsetting the harm.
- 5.3 Furthermore, the Highways Officer has advised that the original traffic generation was calculated on 28 dwellings. The site now only accommodates 22 dwellings and the TN cannot demonstrate severe harm arising from traffic generation on this site.
- 5.4 All other technical evidence has been assessed on appeal and at reserved matters stage. There are proposed to be no changes in layout nor would there be any design changes to the site as part of this application. Officers therefore have no technical reasons to object to the removal of condition 14.
- 5.5 The following planning policies have been taken into account:
- 5.6 **Vale of White Horse Local Plan 2031 Part 1 Policies (VOWH LPP1):**
CP1 – Presumption in Favour of Sustainable Development
CP2 – Cooperation on unmet housing need for Oxfordshire
CP3 – Settlement Hierarchy
CP4 – Meeting our housing needs
CP5 – Housing supply ring-fence
CP7 – Providing supporting infrastructure and services
CP8 – Spatial Strategy for Abingdon & Oxford Fringe sub-area
CP22 – Housing mix
CP23 – Housing density
CP24 – Affordable Housing
CP33 – Promoting sustainable transport, cycling and walking
CP36 – Electronic communications
CP37 – Design and Local Distinctiveness
CP38 – Design strategies for strategic and major development sites
CP39 – The Historic Environment
CP42 – Flood Risk
CP43 – Natural resources
CP44 – Landscape
CP45 – Green Infrastructure
CP46 – Conservation and improvement of biodiversity

5.7 Saved Policies of the Vale of White Horse Local Plan 2011 (LP 2011):

DC1 – Design
DC3 – Design against crime
DC5 – Access
DC6 – Landscaping
DC7 – Waste collection and recycling
DC9 – The impact of development on neighbouring uses
DC12 – Water quality and resources
H23 – Open space in new housing development
HE10 – Archaeology
NE9 – Lowland Vale

5.8 Emerging Vale of White Horse Local Plan 2031 Part 2

A publication draft of the Vale of White Horse Local Plan 2031 Part 2 has been subject to Examination and Main Modifications are out to public consultation until 1 April 2019. Its policies are a material consideration although full weight cannot be given to them at present. The following policies are material to the consideration of this application:

DP2 - Space Standards
DP8 - Community Services and Facilities
DP16 - Access
DP17 - Transport Assessments and Travel Plans
DP21 - External Lighting
DP23 - Impact of Development on Amenity
DP24 - Effect of Neighbouring or Previous Uses on New Developments
DP25 - Noise Pollution
DP26 - Air Quality
DP27 - Land Affected by Contamination
DP28 - Waste Collection and Recycling
DP33 - Open Space
DP36 - Heritage Assets
DP39 - Archaeology and Scheduled Monuments

5.9 Neighbourhood plan

Drayton has an Adopted Neighbourhood plan.
The relevant policies are listed below: P-LF2: Bonded Development
P-LF3: Building Design Guidance
P-LF4: Conservation Area
P-LF5: The Historic Environment
P-LF6: Additional Greenery
P-Wp1: Connected Development
P-T1: Travel Plans
P-S1: Biodiversity
P-H1: Scale of development and Site allocation
P-H2: Affordable Housing
P-H3: Contributions

5.10 Adopted Guidance

Vale of White Horse Design Guide SPD – March 2015
Developer Contributions SPD – June 2017

5.11 **Other Relevant Legislation and Guidance**

National Planning Policy Framework 2019 (NPPF)

National Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas Act) 1990

Community & Infrastructure Levy Legislation

Section 17 of the Crime and Disorder Act 1998

Obligations under Section 149 of the Equalities Act 2010

Provisions of the Human Rights Act 1998

Natural Environment and Rural Communities (NERC) Act 2006

The Conservation of Habitats and Species Regulations 2010

Localism Act (including New Homes Bonus)

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No.	Condition
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Vale of White Horse District Council – Committee Report – 17 April 2019

1.	The development to which this permission relates shall be begun no later than 19 October 2018.
2.	The development hereby permitted shall be carried out in accordance with the following approved plans in so far as those plans relate to matters not reserved for future determination: Location Plan - Dwg No 14.070.SI.01; Proposed Site Access Arrangement drawing - Figure 3.1 from within the Transport Statement (TPA, Aug 2015).
3.	All works and development on site, including demolition, shall be carried out in accordance the Arboricultural Impact Assessment and the Tree Protection Plan and Arboricultural Method Statement (both Bosky Trees, 27 August 2015) and the identified tree protected areas shall not be used at any time to park or manoeuvre vehicles, for site temporary offices or other structures, store building materials or soil, mix cement/concrete or light bonfires.
4.	Surface Urban Drainage System to be implemented as per those details agreed on 24 August 2018 by application P18/V1195/DIS
5.	Foul Water Drainage to be implemented as per those details agreed on 26 October 2018 by application P18/V2086/DIS
6.	Construction Traffic Management Plan to be implemented as per those details agreed on 18 July 2018 by application P18/V1343/DIS
7.	Travel Plan to be implemented as per those details agreed on 24 August 2018 by application P18/V1195/DIS
8.	Archaeology Investigation to be implemented as per those details agreed on 24 August 2018 by application P18/V1195/DIS
9.	Archaeology Watching Brief to be implemented as per those details agreed on 18 July 2018 by application P18/V1343/DIS
10.	Elements of public art shall be incorporated into the development in accordance with a scheme that shall be submitted to the Council prior to dwellings being built above slab level. Thereafter, the public art elements shall be provided and maintained in accordance with the agreed details prior to occupation of the penultimate dwelling.
11.	Vehicular Access to be implemented as per those details agreed on 24 August 2018 by application P18/V1195/DIS
12.	The development hereby permitted shall be implemented in full accordance with the scheme of mitigation, compensation and enhancement contained in Section 6 of the Ecological Appraisal (Malford Environmental Consulting, 3 July 2015). Any variation shall be agreed in writing by the local planning authority before such change is made. This condition will be discharged on receipt of a letter from the project ecologist providing evidence to demonstrate that the mitigation, compensation and enhancement measures have been implemented in accordance with the approved report.