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| APPLICATION NO. | P18/V1498/FUL |
| SITE | Land off School Road West Hanney Wantage, OX12 0LA |
| PARISH | WEST HANNEY |
| PROPOSAL | Variation of Condition 3 - Highway works to be agreed to application ref P15/V2887/FUL to swap the provision of a pedestrian crossing for a new footpath, to enable the provision of a safer pedestrian route to the nearby primary school that will not require children cross and recross school road (as amended on 17 January 2020). Erection of 15 dwellings and associated works. |
| WARD MEMBER(S) | Matthew Barber |
| APPLICANT | Mr N Walker |
| OFFICER | Adrian Butler |

RECOMMENDATION

It is recommended that planning permission is granted subject to the following conditions:

1. Approved plans

Pre-Occupancy or Other Stage Conditions

- 2. Prior to the first occupation of any dwellings the footway to East Hanney and works to public footpath no. 5 shall be implemented**
- 3. Road and footways implemented prior to first occupation of each dwelling in accordance with details approved under P17/V1850/DIS. Wearing course prior to occupation of the penultimate dwelling**
- 4. Slab levels in accordance with approved details application no. P17/V1850/DIS)**
- 5. Materials in accordance with details approved under application no. P17/V1851/DIS**
- 6. Construction traffic management plan in accordance with details approved under application no. P17/V1852/DIS**
- 7. Travel information pack to be provided to each first occupant in accordance with details approved under application no. P17/V2003/DIS**
- 8. Drainage in accordance with details approved under application no. P17/V1850/DIS prior to occupation of each plot**
- 9. Landscaping to be implemented prior to occupation of penultimate dwelling in accordance with details approved under application no. P17/V1898/DIS**
- 10. Boundary treatments implemented prior to first occupation of each plot in accordance with details approved under application no. P17/V1898/DIS**

11. Ecology mitigation to be implemented prior to occupation of penultimate dwelling in accordance with details approved by application no. P17/V2019/DIS
12. Prior to the use of the new vehicular access, visibility splays shall be provided in both directions measuring 2.4 metres by 43 metres.
13. Turning spaces in accordance with approved plans prior to the occupation of each plot

Post Occupancy Monitoring and Management Conditions

14. Retention of garages
15. Obscure glazing to first floor window in western elevation of plot 6

1.0 Introduction and Proposal

- 1.1 The application which is recommended for approval is presented to planning committee as it could represent a significant departure from the views expressed by the highways authority.
- 1.2 Planning permission was granted for 15 dwellings on this site under planning application P15/V2887/FUL. Condition 3 of that permission requires prior to development commencing:
 - The submission for approval of an uncontrolled pedestrian crossing in the immediate vicinity of the access junction to allow safe pedestrian travel across School Road onto the existing footway on the southern side of School Road and
 - The upgrading of the West Hanney footpath number 5 from the site to its junction with School Road.

The reason for the condition is in the interest of highway safety and to promote sustainable methods of transport.

- 1.3 Details pursuant to this condition were approved under application P17/V2004/DIS on 22 August 2017. Approved plans are **attached** at Appendix 2 showing the crossing of School Road and including works to an embankment on the south side of School Road. These works provided access to the pavement on the south side of School Road. The approved details also included upgrading footpath number 5 by widening it to over 3m in parts and resurfacing.

The Proposal

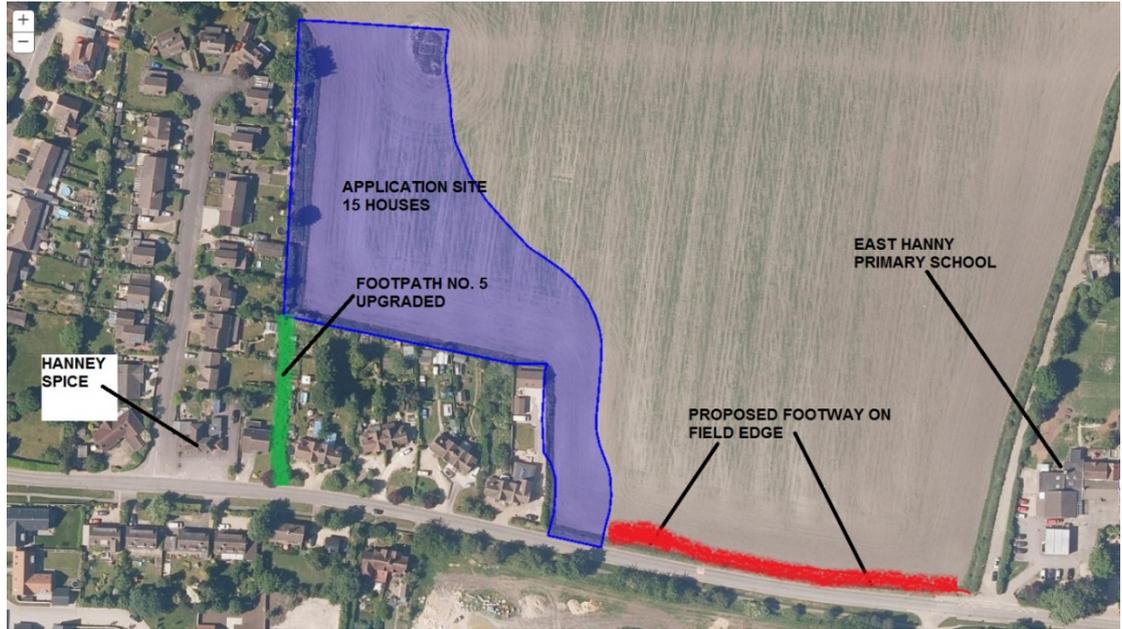
- 1.4 The submitted planning application form explains that the proposal is to “*swap the provision of a pedestrian crossing*” (on School Road) “*for a new footpath, to enable the provision of a safer pedestrian route to the nearby primary school that will not require children to cross and recross school road*”.
- 1.5 This application originally proposed a footway from the site access eastwards ‘on’ the northern side of School Road towards East Hanney

primary school and connecting to a short length of existing footway. Since then the proposals have been revised on five occasions as follows:

1. October 2018 - A footway from the site access eastwards along the adjacent field edge (north side of School Road), towards the primary school at East Hanney and upgrading public footpath number 5
2. March 2019 – A footway from the site access eastwards along the adjacent field edge (north side of School Road), towards the primary school and a footway westwards from the site access linking to a hard surface in front of Hanney Spice (a local restaurant).
3. July 2019 - Upgrading of public footpath no. 5 including widening, hedge cut back, a footway extension beside School Road from the footpath to its west linking to hardsurfacing outside Hanney Spice and road side barrier provision at the public footpath/School Road junction
4. January 2020 – A footway from the site access eastwards along the adjacent field edge to a public right of way immediately adjacent to the school. Resurfacing public footpath no. 5 between existing timber slats which appear to mark the width of the footpath and a barrier at its junction with School Road.
5. April 2020 – The proposal now comprises a 2m wide footway from the site access eastwards along the adjacent field edge (north side of School Road), towards the primary school. In addition, public footpath number 5 is to be upgraded using a no dig technique and hard surfaced from the development site to School Road with this work being *“between the existing timber edging strips that are to be retained or replaced on the existing alignment should the need arise”* (annotation on submitted drawing 8161053/6300 Rev A8).

Copies of the current plans are **attached** as Appendix 1.

- 1.6 A site location plan showing the proposals is below for context:



2.0 SUMMARY OF CONSULTATIONS AND REPRESENTATIONS ON CURRENT SUBMISSION

2.1 A summary of the responses received to the current proposal is below. A full copy of all the comments made can be seen online at www.whitehorsedc.gov.uk

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| <p>Parish Council</p> | <p><u>Current Observations – April 2020</u> Comments: Regards the north/south footpath 5 running along the western boundary:</p> <ul style="list-style-type: none"> • Still concerned about the safety of pedestrians who will cross School Road at the south end of this path. School Road can be quite hazardous, and pedestrians will need to cross School Road at a diagonal to join the footpath on the south side of School Road. • The footpath diagram shows an extension to the west at the south end. There are no longer any plans to extend the footpath west in front of Coralea. • The gradient at the south end needs reducing • There needs to be greater clarity in the planning application about the surface of the footpath running along the western boundary of the proposed development. If the surface is left as it is, it will quickly become muddy and impassable in wet weather. • We would like the kissing gate to be moved to the northern end of footpath 5 at the northwest corner of the proposed development |
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| | <p><u>Comments – January 2020</u></p> <p>No objections</p> <ul style="list-style-type: none"> • The Parish Council met with the agent to discuss the revised plans for the footpaths around this development. The path leading from the development east towards the school is as discussed, with construction of the path in the field leaving the existing bank next to the road. The path to the west of the development from north to south is as discussed although the gradient at the south end of the path needs to be reduced • Councillors are still concerned about the safety of pedestrians crossing the road from the south end of this path to the pavement on the south side of School Road. Current safety will be improved by the addition of a barrier at the south end of the path however this will be the main route for residents of the new development to the church and local pub and there is no direct access to the pavement on the south side of School Road. We comment because it is a safety concern, in particular as this road can be quite busy during peak times. • Furthermore, it would be useful to see a plan for the whole development and how the paths are connected from east to west and north to south through the development. For example, what are the plans for the current footpath heading north into the field by the west side of the new development? <p>In respect of previous iterations of schemes presented with this application the Parish Council:</p> <ul style="list-style-type: none"> • (May 2019) - Objected to a proposal for a footway in front of houses on the north side of School Road; and, • (July 2019) - No objection to a path on the north side of School Road. |
| Residents | <p>Four residents have written to object to the current proposal. Their objections are summarised as follows:</p> <ul style="list-style-type: none"> • The applicant is unable to meet minimum 1.5m width standards for pedestrian access resulting in narrow and dangerous footpaths. Pedestrians and those with pushchairs or wheelchair users would not be able to pass |

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| | <ul style="list-style-type: none">• A guard rail also reduces the effective width of the footpath to 0.8m• Set a precedent for similar unsafe pedestrian access• Any lighting would be intrusive for neighbours and obstruct pedestrian access• Crossing School Road would be dangerous due to lack of visibility• There is no footway proposed to the west meaning pedestrians would need to walk on the unlit verge or road with parked cars and increasing traffic• School Road floods and pedestrians would have to walk through flood waters to reach the development• There is no profile plan to ensure regrading work does not exceed the proposed 1:12 gradient• No detail for the improvement of the footpath including vegetation cut back or maintenance of the improved footpath. If not improved the footpath will become rutted, muddy and impassable. This will disadvantage people with pushchairs, the elderly and those with a disability and could prevent them fully integrating with the West Hanney community <p>In response to earlier iterations of the application proposals letters of objection were received from 14 local addresses. The objections are summarised as follows:</p> <ul style="list-style-type: none">• The proposal does not provide safe crossing of School Road. A crossing should be provided to link the proposed footway and that on the south side of School Road• The improvement to the public footpath does not meet the minimum width of 1.5m. Deviation from this would set a precedent and is an inadequate improvement if the developer wants to further expand the development• The public footpath has inadequate width to allow pedestrians, and wheelchair users of those with push chairs to pass• No mention of any regrading work to the public footpath• The plans are unclear and the width of the footpath is not given |
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| | <ul style="list-style-type: none">• A 1.5m footpath required by the County Council could not be provided as the width is only 1m• The location of the guard rail reduces the effective width of the footpath to 0.8m which is too small to provide the required access• The guard barrier would be out of keeping• Neighbouring vegetation is privately owned and could be damaged by the works to the public footpath• Any lighting would be intrusive for neighbours and further obstruct pedestrian access• Poor visibility from the footpath to the west• A path in front of Coralea to the west has been removed from the scheme which could leave pedestrians walking in the road and being at risk to passing traffic• No indication as to how the footpath connects to other footpaths or proposed footpaths in the new estate• A kissing gate removed from the public footpath may need to be reinstalled on the footpath to the north west of the development• The path to and from the school presents a problem as there is no access beyond the new road junction and there can be no crossing School Road at this point• School Road floods and pedestrians not heading into the new estate would be forced to walk through floods at road level• The path to the school is not a safe route for children being on a 1.2m high bank with no handrails• If approved this application will allow the 15 houses to be built• Flooding of the site• Inadequate services to serve this development• Loss of privacy from the proposed houses• Increased car emissions• Street lighting would be inappropriate• Loss of agricultural land• The new footway would alter the appearance of the field• Proposal does not address road safety• No access to the footway on the south side of School Road due to the steep bank meaning pedestrians including school children will need to walk along School Road |
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| | <ul style="list-style-type: none"> • Railings would be an ugly urban feature detrimental to the character of the village • Impact on a tree canopy • Footpaths would be out of keeping and change the rural character of this part of School Road • Insufficient width to build a footpath and a retaining wall west of the site access and without encroaching on land not owned by the applicant and it would narrow School Lane • Street lighting would be inappropriate • Walking westwards along School Road is unsafe • No safe crossing of School Road • Grass bank on the north side of School Road should be protected • Flooding • A road safety audit is flawed. The audit is unclear, only included a 30 minute visit to the site and failed to observe vulnerable people crossing School Lane despite children crossing the road at that time • Widening the public footpath to 1.5m is not possible without encroachment on to land outside the control of the applicant and could damage neighbouring hedges • A path westwards towards Hanney Spice would promote a dangerous route to the west of the village • The housing would erode the gap between West and East Hanney • A crossing near the school which would then allow access over existing footways is all that is required. |
| <p>Oxfordshire County Council</p> | <p>Highways <u>Current Observations: - April 2020</u> Objection:</p> <ul style="list-style-type: none"> • The proposed improvements to the existing Public Right of Way (PROW) and section of footway along School Road, are not sufficient to provide an appropriate and safe means of pedestrian access to the site, from the west. Specifically, the proposals do not show all of the required improvements to the PROW, including the removal of overhanging vegetation and an increase in width, as previously requested. Furthermore, where the PROW connects to School Road, it appears |

that pedestrians will be required to walk within the verge and/or carriageway, in order to reach the existing footway network. In addition, when taking into account the location of pedestrian guardrail, the effective width of the proposed footway will be provided at approximately 0.8m, which is below the council's minimum requirement (1.5m) and is therefore not acceptable.

Comments – January 2020

Objection:

- The current proposals do not show all the required improvements to the public footpath, including the removal of overhanging vegetation and an increase in width. In addition, it is unclear how the proposed adjacent footway will connect to the existing footway network or how this will be accessed and used by pedestrians. Furthermore, when taking into account the location of the pedestrian guard rail, the effective width of the footway will be provided at approximately 0.8m, which is below the council's minimum requirement (1.5m) and is therefore not acceptable to serve the associated residential development.

In respect of previous iterations of schemes presented with this application the County Council has objected because:

- (August 2019) - The PROW is unsuitable to serve the development due to its limited width, secluded nature and unmade surface. In addition, it appeared that highway boundary is not correctly shown and may impact on the ability to provide the footway along School Road at an acceptable width. In addition, it is noted that there is a tree, which is required to be removed in order to facilitate the works, which appears to be within third party ownership.
- (April 2019) - The proposed footways are required to be shown on a topographical survey base plan at a scale of 1/250, clearly identifying the extents of the highway boundary, alongside that of the adjacent carriageway, verges and third party land/properties. Furthermore, the proposed

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| | <p>footways are required to be provided at a width of 1.8m.</p> <ul style="list-style-type: none"> (July 2018) - The footway on the north side of School Road only provides access to the school and there are level differences along School Road adjacent to the site between the carriageway and existing footway along the southern side of the highway, which will prevent pedestrian access to and from the site at this location. |
| Countryside Officer | No objection |

3.0 RELEVANT PLANNING HISTORY

3.1 [P17/V2004/DIS](#) - Approved (22/08/2017)
 Discharge of Condition(s) 3 (highway works) of planning permission P15/V2887/FUL

[P15/V2887/FUL](#) - Approved (26/08/2016)
 Erection of 15 dwellings and associated works (as amended by Drawings and information accompanying agent's email of 22 March 2016 and further amended by location, site and landscaping plan drawings 2925.100B, 101D, 102F, 113A and 115B and Design and Access addendum received 31 March 2016 and as clarified by updated Flood Risk Assessment accompanying agent's email of 23 June 2016

4.0 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

4.1 The proposal is for fewer than 150 dwellings and the site is not in a 'sensitive area' as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The site area does not exceed 5ha and therefore, the proposal does not fall within the thresholds set at Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Consequently the proposal is not EIA development.

5.0 MAIN ISSUES

The main issues are:

- The principle of varying planning conditions
- Highway and pedestrian safety
- Financial contributions
- Conditions

The principle of varying planning conditions

5.1 This is an application under section 73 of the Town and Country Planning Act 1990. This allows an application to be made for the development of land without complying with conditions subject to which a previous planning permission was granted. Consideration is only

given to the question of the conditions subject to which planning permission should be granted, and:

- if it is decided that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, planning permission should be granted; and,
- if it is decided that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the application should be refused.

- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70(2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- 5.3 In this case the Development Plan comprises the adopted Vale of White Horse Local Plan 2031 Part 1 (the LPP1) and the adopted Vale of White Horse Local Plan 2031 Part 2 (the LPP2).
- 5.4 Planning permission has been granted for 15 dwellings on this site. Details required by pre-commencement planning conditions have been submitted and approved and a material start of the development has begun through the excavation of foundations for one of the approved garages. This makes the original planning permission for 15 dwellings extant.

Highway and Pedestrian Safety

- 5.5 Condition 3 of application no. P15/V2887/FUL states:
“No development shall commence until a scheme for off-site highway works, to include a timetable for their implementation, has been submitted to and agreed in writing by the local planning authority. The submitted scheme shall include the development access junction with School Road, the provision of an uncontrolled pedestrian crossing in the immediate vicinity of the access junction to allow safe pedestrian travel across School Road onto the existing footpath on the southern side of School Road and the upgrading of West Hanney Footpath Number 5 to the immediate west, from the site to its junction with School Road. The approved works shall be implemented in full before the first occupation of any dwelling hereby approved.

Reason: In the interest of highway safety and to promote sustainable methods of transport (Policy DC5 of the adopted Local Plan)”.

- 5.6 As mentioned earlier in this report details pursuant to this condition have been approved (application no. P17/V2004/DIS). However, the applicant has explained that the crossing to the existing footway on the

south side of School Road cannot be secured as the embankment on the southern side of the road is common land.

The Proposed Footway on the North Side of School Road

- 5.7 The proposed footway along the field edge on the northern side of School Road allows pedestrian access from the permitted 15 dwellings to the primary school without needing to cross School Road. Pedestrians would need to cross the public right of way adjacent to the school and which some people appear to use for 'drop off parking'. To access the East Hanney recreation ground, village shop and other facilities pedestrians would need to cross School Road twice and could use existing pedestrian crossing points. In highway safety terms this part of the proposal is considered acceptable and I note the highways officer has no objection in respect of this part of the proposal. The facilities in East Hanney are reasonably accessible from the site.
- 5.8 Visually the footway would have an acceptable impact. It would be reflective of the raised footway and embankment on the south side of School Road. The proposal is considered compliant with core policy 37 of the LPP1 and emerging policy RS1 of the Neighbourhood Plan.

The Public Footpath No. 5 Works

- 5.9 There is no explanation in the planning condition or report to planning committee for application no. P15/V2887/FUL of what upgrade works are required to public footpath no. 5. As mentioned above a scheme for upgrading has already been approved under application no. P17/V2004/DIS and the plan is **attached** at Appendix 2.
- 5.10 There is no awarded width to this public footpath. Some local residents suggest the 1.5m wide public footpath requested by the highways officer in their responses to this application cannot be achieved as the public footpath is only up to 1.2m wide. It may be the case that provision of a 1.5m wide public footpath could encroach into neighbouring gardens and it would likely result in the removal or part removal of adjacent hedges which provide privacy for adjacent residents.
- 5.11 The current proposal is for upgrading the footpath between existing timber edging strips which are approximately 1m apart and with a no dig construction. This is below the highways officer recommended width but as mentioned above, a 1.5m width may not be achievable without impacting hedges. The proposal would restrict space for pedestrians and those with pushchairs or wheelchair users to pass should such situations occur.
- 5.12 It is a landowners responsibility for the upkeep of a public footpath and preventing encroaching vegetation, and it seems to not do so is a criminal offence and clearance of obstructions is enforceable by the County Council as highways authority (Central Government Guidance

on Public rights of way: landowner responsibilities). In my visits the vegetation has been trimmed back.

- 5.13 The verge at the public footpath/School Road 'junction' is grassed and adds to the semi-rural character of the area and this would be eroded with a hard path to the hardstanding fronting Hanney Spice. Under application no. P17/V2004/DIS this council has approved an upgrade to the verge and this is shown **on the plans at Appendix 2**.
- 5.14 From a planning perspective and given the limitations to the public footpath in terms of width, the works now proposed provide an acceptable upgrade to public footpath no. 5. Users would need to pass over a short stretch of grass verge or cross School Road diagonally to reach hard surfacing leading to the footway on the south side of School Road and on towards the limited community facilities in West Hanney.

Financial Contributions

- 5.15 The section 106 legal agreement associated with application no. P15/V2887/FUL captures any section 73 planning applications and there is, therefore, no need for a variation to the legal agreement. Similarly, as a material start has commenced on the original permission, the proposal is not CIL liable as obligations remain secured by the S106 agreement.

Conditions

- 5.16 In considering a S73 application, it is important to review planning conditions to ensure they still meet the 'six tests' when originally imposed, as an approval of a S73 application will be a new planning permission.
- 5.17 There is no need for a time condition as the development has commenced.
- 5.18 All pre-commencement conditions associated with application no. P15/V2887/FUL have been approved (conditions 4 (highway works), 6 (slab levels), 7 (materials), 8 (construction traffic management plan), 9 (travel information pack), 10 (drainage), 11 (landscaping), 13 (boundary treatments) and 15 (ecology)). Revised conditions for this application are therefore suggested requiring implementation of the approved details.
- 5.19 A new condition is required to ensure the works if permitted by this application are implemented and they should be provided prior to occupation of the first dwelling.
- 5.20 Previous conditions relating to car parking, bicycle and bin storage to be agreed and no drainage to the highway are no longer considered necessary to make the scheme acceptable. This is because the proposal included an acceptable level of car parking with each house having at least 2 or more parking spaces and there are six unallocated

parking spaces. It is for future residents to decide where any bicycles and their bins will be stored (there is adequate space within garages/car ports and on plot for bicycle and bin storage), and a surface water drainage scheme has been approved.

- 5.21 Other conditions attached to application no. P15/V2887/FUL remain necessary and should be imposed should planning permission be granted. These include conditions requiring visibility splays, turning spaces to be provided, retention of garages and obscured glazing to a first floor window in plot 6.

6.0 CONCLUSION

- 6.1 There is an extant planning permission for 15 houses on this site. An acceptable alternative footway to the east is proposed.
- 6.2 The council has permitted upgrade works to public footpath no.5. The alternative upgrade works now proposed provide protection for adjacent hedges and a barrier at the 'junction' with School Road. It is accepted that there may be difficulties in users of the public footpath passing. Whilst the highways officer seeks a 1.5m wide public footpath, this does not appear achievable without implications for hedges beside the footpath.
- 6.3 Given the public footpath constraints and seeking to protect the semi-rural character of the area, the alternative proposals are considered reasonable for allowing access to village facilities. The proposal is therefore considered compliant with those relevant development plan policies identified in the report.

The following planning policies have been taken into account:

Adopted Vale of White Horse Local Plan 2031 Part 1 policies:

- CP01 - Presumption in Favour of Sustainable Development
- CP02 - Cooperation on Unmet Housing Need for Oxfordshire
- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP07 - Providing Supporting Infrastructure and Services
- CP08 - Spatial Strategy for Abingdon-on-Thames and Oxford Fringe Sub-Area
- CP22 - Housing Mix
- CP23 - Housing Density
- CP24 - Affordable Housing
- CP33 - Promoting Sustainable Transport and Accessibility
- CP35 - Promoting Public 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
- CP40 - Sustainable Design and Construction
- CP42 - Flood Risk

- CP43 - Natural Resources
- CP44 - Landscape
- CP45 - Green Infrastructure
- CP46 - Conservation and Improvement of Biodiversity

Adopted Vale of White Horse Local Plan 2031 Part 2 policies:

- CP04A - Meeting our Housing Needs
- DP02 - Space Standards
- DP16 - Access
- DP17 - Transport Assessments and Travel Plans
- DP20 - Public Art
- DP21 - External Lighting
- DP23 - Impact of Development on Amenity
- DP25 - Noise Pollution
- DP26 - Air Quality
- DP27 - Land Affected by Contamination
- DP28 - Waste Collection and Recycling
- DP29 - Settlement Character and Gaps
- DP31 - Protection of Public Rights of Way, National Trails and Open Access Areas
- DP33 - Open Space
- DP36 - Heritage Assets
- DP37 - Conservation Areas
- DP38 - Listed Buildings
- DP39 - Archaeology and Scheduled Monuments

Neighbourhood Plan

A neighbourhood area was formally designated on 17 June 2015. The parish council has started the process of gathering evidence and engaging with the local community. This is to give the plan a direction and draft policies that will form the neighbourhood plan.

The parish council recently ran the statutory pre-submission consultation on the draft plan, which ended on 20 December 2019. The local community and statutory consultees were invited to offer their comments on the draft neighbourhood plan. The parish council are reviewing comments received and making changes to the draft plan before formally submitting it to the district council. Presently the emerging policies can be given limited weight. Relevant policies include:

- RS1 – Village Character and Design
- RS2 – Coalescence with East Hanney
- RS3 – Location of development
- RS4 – Development boundary

Adopted Guidance

- Vale of White Horse Design Guide 2015
- Developer Contributions – Delivering Infrastructure to Support Development
- SPD – June 2017

Other Relevant Legislation and Guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (PPG)

Community & Infrastructure Levy Legislation

Planning (Listed Buildings and Conservation Areas Act) 1990

Human Rights Act 1998

Section 149 of the Equality Act 2010

Section 17 of the Crime and Disorder Act 1998

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