

APPLICATION NO.	P22/V2546/S73
SITE	Land South of Halls Close Drayton
PARISH	DRAYTON
PROPOSAL	Variation of conditions 2 (Approved Plans) on planning application P17/V1225/RM and removal of condition 14 (Age Restriction) on planning application P15/V2077/O. (As amended by plans and additional documentation received 16 December 2022, 10 January 2023, 19 January 2023, 27 January 2023 and 31 January 2023). (Description corrected and clarified in agreement with agent on 16 February 2023). (Erection of 22 dwellings together with replacement garage for 10 Halls Close).
WARD MEMBER(S)	Andy Cooke
APPLICANT	Hill Residential Limited
OFFICER	Sally Appleyard

RECOMMENDATION

Planning permission is granted, subject to the following conditions:

Standard

- 1. Time limit – variation of condition**
- 2. Approved Plans**

Pre-commencement

- 3. Vehicular access and visibility to be implemented as approved**
- 4. External lighting details to be submitted prior to commencement of development above slab level**
- 5. Wall material details to be submitted prior to commencement of development above slab level**

Pre-occupation

- 6. Implementation of approved surface water drainage scheme**
- 7. Implementation of approved foul water drainage scheme**
- 8. Implementation of approved boundary details**
- 9. Implementation of approved landscape scheme**

Compliance

- 10. Implementation of approved tree protection measures**
- 11. Implementation of approved Construction Traffic Management Plan**
- 12. Implementation of approved Travel Plan**
- 13. Implementation of ecological scheme of mitigation, compensation and enhancement**
- 14. Materials in accordance with submitted details**

1.0 INTRODUCTION AND PROPOSAL

- 1.1 This application has been referred to planning committee as Drayton Parish Council object.
- 1.2 The application site is a paddock at the rear of 10 Halls Close in Drayton. Outline planning permission (ref P15/V2077/O) was granted on appeal in November 2016 for up to 28 dwellings, and a reserved matters application (P17/V1225/RM) was approved in April 2018 for 22 dwellings. The approved development consists of 11 age restricted units, 3 market units and 8 affordable units. All pre-commencement conditions were discharged prior to the commencement of development on site on 8 October 2018.
- 1.3 This application seeks to vary condition 2 (approved plans) of planning permission P17/V1225/RM. The changes proposed include the following:
- Minor realignment of road and pavement at site entrance
 - Plots 20-22 and the private drive moved approximately 1.5 metres to the south to increase amenity space
 - Minor landscape adjustments to reflect changes to the layout
 - Elevation changes to plot 1 to include alterations and reduction of glazing on front elevation, increased width of front door and removal of side glazed panel, and detailing on west side elevation to be removed
 - Elevation changes to plot 2 to include increased width of front door and removal of side glazed panel, and removal of glazed area over French door on east elevation and its replacement with brick.
- 1.4 This application also seeks to remove condition 14 of the outline consent (ref P15/V2077/O). This will result in the 11 age restricted units being open market units. The proposed development would then consist of a total of 14 market units and 8 affordable units.
- 1.5 Throughout the course of this application, plans approved under the reserved matters consent were re-submitted and updated to reflect the minor changes to the layout.
- 1.6 The latest site layout plans and elevations are **attached** at Appendix 1. All other plans and technical documents are available to view online on the council's website at www.whitehorsedc.gov.uk.

2.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

- 2.1 A summary of the latest responses received from consultees and third parties to the application is below. Full responses received can be viewed online at www.whitehorsedc.gov.uk

Drayton Parish Council	<u>Second Consultation (February 2023)</u> Object <ul style="list-style-type: none">- Concerns regarding pedestrian and road safety- No longer object to the removal of condition 14
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	<p><u>First Consultation (November 2022)</u></p> <p>Object</p> <ul style="list-style-type: none"> - It is stated that the development has started. The Parish Council is aware that some minor trenching has occurred on site and that a garage may have been moved. We would seek clarification that this constitutes starting the development. - The proposed removal of Condition 14 is said to be in line with the inspectors report when the original application was allowed on appeal. The Parish Council would seek confirmation of this as the condition was a key element of the original application. In addition to this, a change in occupancy will increase traffic in a road with insufficient footway provision, and will be a road safety hazard. - We look for a reasonable Traffic Plan. - The prospect of further development makes inadequate footway provision. - The amendments to the layout seem minor but extends the current site boundary slightly.
<p>Residents</p>	<p><u>Second Consultation (February 2023)</u></p> <p>Two further letters of representation have been received, raising the following concerns:</p> <ul style="list-style-type: none"> - Loss of age restricted homes is not acceptable - The replacement of glazing above the east-facing French window on plot 2 with a brick wall is undesirable. <p><u>First Consultation (November 2022)</u></p> <p>Eight letters of representation were received raising the following concerns:</p> <ul style="list-style-type: none"> - Lack of balancing pond on the site - Risk of flooding - Additional traffic generated by 22 houses would impact highway safety - Access insufficient - Lack of pavement in Halls Close - The proposal does not comply with the Drayton Neighbourhood Plan - Loss of age restricted homes is not acceptable - Concerns of future development to the south of the site

Oxfordshire County Council – Transport	<u>Second Consultation (February 2023)</u> No objection <u>First Consultation (November 2022)</u> No objection
Oxfordshire County Council – LLFA	<u>Second Consultation (February 2023)</u> No comments <u>First Consultation (November 2022)</u> No comments
Oxfordshire County Council – Education	<u>Second Consultation (February 2023)</u> No response <u>First Consultation (November 2022)</u> No objection. This site is already subject to a signed S106 agreement. The matrix contained within that agreement will be applied to any change in dwelling mix or dwelling use.
Oxfordshire County Council – Archaeology	<u>Second Consultation (February 2023)</u> No further comments <u>First Consultation (November 2022)</u> No objection. A programme of archaeological recording has been undertaken and completed in line with an agreed written scheme of investigation (WSI). No further investigation is required. The post excavation analysis is ongoing, and a final report will be submitted. As such there are no archaeological constraints to this application.

3.0 **RELEVANT PLANNING HISTORY**

3.1 [P18/V2931/FUL](#) - Refused (02/05/2019) - Appeal allowed (30/09/2019)
Removal of condition 14 (age restricted units) - on application ref. P15/V2077/O

[P18/V2086/DIS](#) - Approved (26/10/2018)
Discharge of condition 6 - foul water drainage strategy on application ref. P15/V2077/O

[P18/V1683/DIS](#) - Approved (03/09/2018)
Discharge of condition 2 - Contamination Evaluation Report and 4 - Materials on application ref P17/V1225/RM.

[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

[P18/V1753/DIS](#) - Approved (01/08/2018)

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

[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.

[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.

[P16/V0675/O](#) - Withdrawn (11/01/2017)

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.

[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)

3.2 **Pre-application History**

[P22/V1647/PEJ](#) - Advice provided (18/08/2022)

The site has an existing and implemented planning permission for 22 dwellings with a condition which sets out an age restriction on occupation (LPA Ref P17/V1225/RM).

The proposal is to submit a section73 planning application which will seek to remove the age restriction.

The proposal would also substitute the floorplans and elevations of the proposed dwellings, the details of which are also the subject of a planning condition.

[P20/V0460/PEJ](#) - Advice provided (13/11/2020)

Pre-application discussions in relation to seeking an improved scheme of amended house types, layout and materials on an outline and reserved matters approval.

3.3 **Screening Opinion requests**

None

4.0 ENVIRONMENTAL IMPACT ASSESSMENT

- 4.1 This proposal does not exceed 150 dwellings, the site area is under 5ha and is not within a 'sensitive area' as defined by the EIA regulations. Consequently the proposal is beneath the thresholds set in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as amended and this proposal is not EIA development and there is no requirement under the Regulations to provide a screening opinion.

5.0 MAIN ISSUES

- 5.1 **The relevant planning considerations are the following:**

- **The principle of development**
- **Principle of varying conditions**
- **Design & layout**
- **Age restricted units**
- **Technical matters**
- **Financial contributions**
- **Planning conditions**

5.2 The principle of development

Outline planning permission (ref P15/V2077/O) was granted on appeal in November 2016 for up to 28 dwellings, and a reserved matters application (P17/V1225/RM) was approved in April 2018 for 22 dwellings. The approved development has been lawfully commenced. The principle of development is therefore established.

5.3 Principle of Varying Conditions

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 and Country Planning Act 1990 an application can be made to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. Under section 73a of the Town and Country Planning Act 1990 an application can be made for development without complying with a condition subject to which planning permission was granted.

- 5.4 The relevant planning considerations for this application are only the matters for which the modification is sought. All the other matters were dealt with as part of the approved application and are not for re-consideration here.

5.5 Design and Layout

Core Policy 37 of the LPP1 requires new development to be of a high-quality design that is visually attractive and the scale, height, massing and details are appropriate for the site and surrounding area. Core Policy 38 of the LPP1 sets out the requirement for Masterplans and Design and Access Statements to accompany strategic and major development proposals. Policy P-LF3 of the

Drayton Neighbourhood Plan (DNP) requires new development to be designed to a high standard which responds to the distinctive character of Drayton and reflects the guidelines and principles as set out within the Drayton Design Guide (see Annex D of the DNP). The Council's Joint Design Guide provides further guidance on how to achieve high quality, well-designed residential developments.

- 5.6 The proposed changes to the design and layout of the scheme are as follows:
- Minor realignment of road and pavement at site entrance
 - Plots 20-22 and the private drive moved approximately 1.5 metres to the south to increase amenity space
 - Minor landscape adjustments to reflect changes to the layout
 - Elevation changes to plot 1 to include alterations and reduction of glazing on front elevation, increased width of front door and removal of side glazed panel, and detailing on west side elevation to be removed
 - Elevation changes to plot 2 to include increased width of front door and removal of side glazed panel, and removal of glazed area over French door on east elevation and its replacement with brick.
- 5.7 These amendments to the scheme are considered minor changes that would not significantly harm the character of the area or harm the amenities of neighbours. Overall, the proposed changes are considered acceptable and do not significantly alter the scheme from the one previously approved.
- 5.8 Details of materials were submitted and approved under application reference P18/V1683/DIS. A revised materials plan has however been submitted with this application which seeks to substitute the clay plain tile and natural slate with a concrete tile and fibre cement slate. These alternative roofing materials give a similar appearance to that of traditional clay tiles and natural slate and are similar to the tiles used on the dwellings recently constructed to the west of the site and are considered to be acceptable in design terms.
- 5.9 The proposal also seeks to substitute the orange multi facing brick with a lightly textured brick with light orange, red, grey and cream shades blended. This is not considered to be reflective of the area where orange and red bricks predominantly characterise this part of the village. Whilst these alternative bricks are not considered to be acceptable, it is considered further brick samples can be dealt with by a condition.
- 5.10 To conclude design and layout matters, the proposed changes to the design and layout are considered to be acceptable and comply with policy CP37 of the adopted Local Plan 2031 part 1, Policy P-LF3 of the Drayton Neighbourhood Plan, and the council's Joint Design Guide.
- 5.11 **Highway safety**
Core Policies 35 and 37 of the adopted Local Plan 2031 part 1 requires development to be well connected to provide safe and convenient ease of movement by all users, and that adequate car parking is provided in accordance with Oxfordshire County Council (OCC) standards on all new developments.

5.12 It is acknowledged that the parish council have raised concerns regarding highway safety. OCC as Highway Authority has been consulted and have reviewed the proposed changes to the road layout and raise no objection. Whilst minor comments have been made regarding carriageway and footpath widths, bin collection points and visibility, these are aspects that relate to adoption should the developer wish to get roads adopted. OCC raise no safety concerns with the layout proposed, which is very similar to that previously approved, together with visibility and bin collection points previously agreed as part of the original permission.

5.13 To conclude, the Highway Authority has raised no objection to the minor re-alignment of the road and pavement and these changes are not considered to detrimentally impact highway safety to warrant refusal of the application.

5.14 **Age restricted units**

The application seeks to remove condition 14 (age restricted units) of the outline consent. The condition reads as follows:

“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.”*

5.15 The removal of condition 14 was previously considered under planning application reference P18/V2931/FUL. Following refusal of the application by the Planning Committee in May 2019, a subsequent appeal was allowed, with the inspector stating that *“the development provides a range and mix of house types that would be appropriate for older people, including affordable housing”* and the site is *“well located in terms of facilities and services”*. The inspector also noted that *“the removal of the condition would not change the range and mix of house types, or their layout, which the Council acknowledges is in accordance with the Oxfordshire Strategic Housing Market Assessment 2014, and it would not prevent older people from occupying the houses”*. Given these factors, the inspector concluded that *“there is no evidence of the necessity of the condition no 14, and that the continue to apply it would be unreasonable”*.

5.16 Whilst planning permission P18/V2931/FUL was never implemented, it clearly establishes the position in relation to the removal of the age restriction condition on this site. There are no changes proposed to the 11 units (plots 1-11) in terms of their size and layout, other than some minor elevational changes to plots 1 and 2. The housing mix remains the same as previously approved.

5.17 The highways authority have also raised no objections to the removal of the age restricted units, and are of the view that this will have marginal impact on trip generation. In considering the appeal, the inspector also noted that there was *“no substantive evidence that the removal of the condition would make the*

site access or local roads unsafe”. As such, it is not considered that the proposal would cause harm to highway safety.

5.18 The site is already subject to a signed S106 agreement. The matrix contained within the agreement will be applied to any change in dwelling mix or dwelling use to calculate the primary education contribution. The 11 age restricted units will now be considered as market dwellings and will therefore be included within the matrix. As such, the additional contributions required as a result of the removal of the 11 age restricted units is already accounted for in the signed S106.

5.19 Given these factors, officers are of the view that this proposal is similar to the application previously considered at appeal. Condition 14 is no longer considered to be reasonable or necessary and therefore does not meet the six tests relevant to imposing conditions as set out in paragraph 56 of the NPPF. The removal of condition 14 is therefore considered acceptable and a refusal seeking its retention would be unreasonable.

5.20 **Technical matters**

Matters of traffic generation, flood risk and drainage, heritage assets, landscape impact and trees, affordable housing, archaeology and ecology, were previously assessed in detail on the outline application and were considered acceptable and since then matters such as detailed drainage schemes, archaeological investigations, contamination and biodiversity off setting have been approved through the discharge of conditions. Officers consider the changes proposed in this application do not result in any material change to these matters. There is also no material change in policy since the adoption of the Local Plan Part 2.

5.21 **Financial contributions**

This site is already subject to a signed S106 agreement which allows for S73 applications. In terms of the education contribution, the matrix contained within the S106 agreement will be applied to any change in dwelling mix or dwelling use and as such will now include the 11 previously age restricted units. As such, a new S106 agreement is not required.

5.22 Since the approval of the outline consent, the Council has adopted a Community Infrastructure Levy (CIL) Charging schedule. The proposed changes do not create additional floor space that would be CIL liable.

5.23 **Planning conditions**

All pre-commencement planning conditions on the outline consent and reserved matters consent have been discharged and will therefore be reworded to reflect this. Conditions that remain relevant will be transferred over to a new permission, should permission be granted.

6.0 **CONCLUSION**

6.1 This application has been determined against the development plan, unless material considerations indicate otherwise. In considering the application, due regard has been given to the representations received from statutory and other

consultees. These have been taken in to account in assessing the overall scheme.

- 6.2 As confirmed at appeal, condition 14 of outline consent P15/V2077/O is no longer considered to be reasonable or necessary, and will not result in changes to the range and mix of house types, and therefore the removal of this condition is acceptable.
- 6.3 The proposed changes to the design and layout of the scheme approved under application reference P17/V1225/RM will not harm the visual amenity of the area, the amenities of neighbouring residents or impact on highway safety.
- 6.4 Overall, the proposed changes comply with relevant development plan policies and the provisions of the NPPF and amount to sustainable development.

The following planning policies, guidance and legislation have been taken into account:

Vale of White Horse Local Plan 2031 part 1 policies:

CP1 - Presumption in Favour of Sustainable Development
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 and Accessibility
CP35 - Promoting Public Transport, Cycling and Walking
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
CP47 - Delivery and Contingency

Vale of White Horse Local Plan 2031 part 2 policies:

DP2 - Space Standards
DP8 - Community Services and Facilities
DP16 - Access
DP20 - Public Art
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
- DP31 - Protection of Public Rights of Way, National Trails and Open Access Areas
- DP33 - Open space
- DP34 - Leisure and Sports Facilities
- DP36 - Heritage Assets
- DP39 - Archaeology and Scheduled Monuments

Drayton Neighbourhood Plan

- P-LF3 – Building design guidance
- P-LF4 – Conservation Area
- P-LF5 – The historic environment
- P-LF6 – Additional greenery - new developments
- P-WP1 – Connected development
- P-T1 – Travel plans
- P-S1 – Biodiversity
- P-H2 – Affordable housing
- P-H3 – Contributions
- P-H4 – External facilities

Supplementary Planning Documents (SPD)

- Joint Design Guide
- Developer Contributions SPD

Other material documents/considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Other Relevant Legislation

Due regard has been had to the following legislation;

- 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)
- Section 85 of the Countryside and Rights of Way Act 2000
- Oxfordshire Local Transport Plan

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