

<b>APPLICATION NO.</b>	<a href="#">P21/V2176/FUL</a>
<b>SITE</b>	Land at Kiln Lane, Drayton, OX14 4FE
<b>PARISH</b>	DRAYTON
<b>PROPOSAL</b>	Demolition of single dwelling and associated outbuildings and structures, and erection of 1x2bed, 2x3bed, 4x4bed and 1x5bed detached dwellings with associated parking and landscaping. (As amended by plans and additional information received 14 September 2021 and 14 February 2022, including change to red line area. Amended plans and documentation received 27 May 2022. Application description amendment agreed with agent 27 May 2022).
<b>WARD MEMBER(S)</b>	Andy Cooke
<b>APPLICANT</b>	JARE Ltd
<b>OFFICER</b>	Sally Appleyard

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## **RECOMMENDATION**

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

### Standard

1. Commencement of development within three years
2. Development in accordance with approved plans

### Pre-commencement

3. Details of materials to be submitted
4. Landscaping scheme
5. Tree/Hedge Protection details
6. Phased contaminated land risk assessment
7. Access and visibility details to be submitted
8. Construction traffic management plan
9. Surface water drainage scheme
10. Foul water drainage scheme
11. Biodiversity off-setting certificate
12. Biodiversity enhancement details
13. Details of any external lighting

### Pre-occupation

14. Management of open space
15. Parking, including visitor parking, to be provided
16. Details of boundary treatments

17. Bin storage details
18. Bin presentation point details
19. Contamination validation report
20. SUDs compliance report
21. Cycle parking in accordance with plan

#### Compliance

22. Construction working hours
23. Compliance with ecological mitigation measures
24. Unsuspected contamination
25. First floor side windows to be obscure glazed
26. Rooflight sill height to be 1.7 metres from finish floor level
27. Garages to be retained for parking

#### Informatives

- CIL  
INF17 – Works within the highway  
PRoWs  
Thames Water

## 1.0 **INTRODUCTION AND PROPOSAL**

- 1.1 This application was considered by committee on 20 April 2022 where it was resolved to defer the decision for further information. A copy of the original report is **attached** at Appendix 1.
  - 1.2 The reasons for deferral related to the following:
    1. A market assessment to be carried out to justify house types and mix
    2. Further information on land contamination and flood risk issues
    3. To encourage greater community engagement.
  - 1.3 Since the April committee meeting, the applicant has amended the house types and mix to 1x2bed, 2x3bed, 4x4bed and 1x5bed detached dwellings and officers have sought advice from the policy team regarding the need for a market assessment.
  - 1.4 Officers have also sought advice from the contaminated land officer and drainage engineer with regards to the contamination and flood risk issues.
  - 1.5 The latest layout plan, elevations and floor plans of the dwellings are **attached** at Appendix 2. All other plans and technical documents are available to view online at [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk).
- ## 2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**
- 2.1 Responses received in relation to the submission of the additional information are summarised below. A full copy of all the comments made can be seen online at [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk).

<p><b>Drayton Parish Council</b></p>	<p><b>No response</b></p>
<p><b>Residents</b></p>	<p><b>Six letters of objection</b> have been received, and the following concerns raised:</p> <ul style="list-style-type: none"> <li>• Latest amendments have not addressed any of the concerns raised by residents and committee members</li> <li>• The number and size of properties breaches Policies CP22, CP23, CP24, CP33 and CP37 of the LPP1, and policies in the Drayton Neighbourhood Plan</li> <li>• The proposal is not SHMA compliant</li> <li>• The amended application ignores the Drayton Neighbourhood Plan preference towards 1-2 bed houses and flats and a greater number of 2-3 beds.</li> <li>• Only 2 visitor parking spaces properties, which is insufficient for the scale of development</li> <li>• There is still not proper and sufficient turning area for large vehicles, Waste vehicles, Fire engines, delivery vehicles</li> <li>• The loss of trees and pond has destroyed habitats</li> <li>• No new contamination survey/inspection report has been submitted.</li> <li>• Very little has changed to reduce the scale and number of conditions required and concerns as to how these would be adhered to.</li> <li>• Highway safety</li> <li>• Drainage and flooding issues</li> <li>• Smaller houses spaced more sperate would be preferable</li> <li>• More planting of trees required</li> <li>• Damage to neighbouring properties during demolition/construction</li> <li>• Concerns that a house will be developed on land where the garage is to be demolished</li> <li>• Not much provision has been made to bring back the trees, pond and wildlife that have been cleared from the site</li> <li>• Proximity of dwelling to rear of 3 Kiln Lane and impact on right to light and privacy</li> <li>• Lack of involvement with local community</li> <li>• Number of dwellings on site to be significantly reduced</li> </ul>
<p><b>Councillor Andy Cooke</b></p>	<p><b>No response</b></p>

<b>Countryside officer</b>	<b>No objection</b> , subject to conditions: <ul style="list-style-type: none"> <li>• Biodiversity offsetting</li> <li>• Compliance with ecological mitigation measures</li> <li>• Details of biodiversity enhancements</li> </ul>
<b>Highways Officer (Oxfordshire County Council)</b>	<b>No objection</b> , subject to conditions: <ul style="list-style-type: none"> <li>• Garage accommodation to be retained for parking vehicles</li> <li>• Details of vehicular access to be submitted</li> <li>• Car parking in accordance with plans</li> <li>• Construction Traffic Management Plan</li> <li>• Provision of bicycle parking in accordance with plans</li> </ul>
<b>Drainage Engineer</b>	<b>No objection</b> , subject to conditions: <ul style="list-style-type: none"> <li>• Sustainable drainage scheme</li> <li>• Foul drainage scheme</li> <li>• SUDS Compliance report</li> </ul>
<b>Contaminated Land Officer</b>	No further comments following previous consultation response of 17 February 2022:  <b>No objection</b> , subject to conditions: <ul style="list-style-type: none"> <li>• Phased contaminated land risk assessment and validation report to be submitted</li> </ul>
<b>Forestry Officer</b>	<b>No objection</b> , subject to conditions: <ul style="list-style-type: none"> <li>• Tree and Hedge protection during construction</li> <li>• Landscaping scheme</li> </ul>
<b>Planning Policy Team</b>	<b>No objection</b> <ul style="list-style-type: none"> <li>• Full comments attached at Appendix 3</li> </ul>

### 3.0 **PLANNING CONSIDERATIONS**

3.1 The reasons for deferral related to the following:

1. A market assessment to be carried out to justify house types and mix
2. Further information on land contamination and flood risk issues
3. To encourage greater community engagement.

3.2 This report looks to address the deferral reasons in turn. All other concerns raised previously are addressed within the original report, which is attached at Appendix 1, and which should be read alongside this update.

3.3 **Market Assessment**

Committee members have requested that a market assessment be carried out to demonstrate and justify a local need for 4 and 5 bed dwellings, which is not SHMA compliant (Policy CP22) or in accordance with the Drayton Neighbourhood Plan preference for smaller units.

3.4 The settlement hierarchy set out in Core Policy 3 of the LPP1 identifies Drayton as one of the “larger” villages which are defined as having a limited range of employment, services, and facilities. Core Policy 3 goes on to state that “unallocated development will be limited to providing for local needs and to support employment, services and facilities within local communities. Core Policy 4 of the LPP1 confirms there is a presumption in favour of sustainable development within the existing built areas of larger villages.

3.5 Officers have received a statement from the Planning Policy Team with regards to “local need” in the context of Core Policies 3 and 4 of the LPP1 which is **attached** at Appendix 3. The statement sets out that the proposal is for a windfall (unallocated) development site which is located within the existing built area, and that Policy CP4 establishes that this is a presumption in favour of this development.

3.6. The statement goes on to clarify that *“the starting point for the consideration of residential development in the existing built area of Larger Villages, such as Drayton, should be Core Policy 4, and its application should help ensure the housing supply is maintained. Core Policy 4 sets the development management policy approach for planning applications in Larger Villages, not Core Policy 3 which establishes the settlement hierarchy for the plan. For Drayton and other Larger Villages, no local needs test is required for unallocated housing sites within the built area, rather a presumption in favour of the grant of permission operates.”*

3.7 Having considered this advice from the Planning Policy Team, officers are of the view that it is not reasonable or necessary to require the submission of a Market Assessment in this case and the lack of an assessment should not be a reason to refuse the application.

3.8 *Housing Mix*

Core Policy 22 of the LPP1 seeks to ensure that the right mix of housing sizes, types and tenures are provided on all residential development sites and that new development should be in accordance with the Council’s current Strategic Housing Market Assessment (SHMA). The Drayton Neighbourhood Plan does not have a specific policy on housing mix on new developments, although it is recognised that the supporting text of Policy P-H2 (Affordable Housing) highlights a preference towards *“1-2 bedroom houses and flats as well as a greater number of 2-3 bedroom homes, and affordable housing”*.

3.9 A SHMA compliant scheme is often difficult to achieve on small scale developments such as this, particularly given the identified site constraints. Whilst a Market Assessment has not been carried out, dwellings have been amended to introduce 2 and 3 bed units. The previous scheme consisted

wholly of 4 and 5 bed dwellings. The proposed development now consists of 1x2 bed dwelling, 2x3 bed dwellings, 4x4 bed dwellings and 1x5bed dwellings.

- 3.10 Officers acknowledge that the amended proposal is still not SHMA compliant, however the scheme does provide a broader range of dwelling types, including 2 and 3 bed units as highlighted in the Drayton Neighbourhood Plan. The housing mix is thus considered to be acceptable by officers
- 3.11 It is noted that several comments highlight the need for affordable housing. Paragraph 64 of the NPPF states that *“Provision of affordable housing should not be sought for residential developments that are not major developments...”*. Major developments are defined as 10 or more residential dwellings within the Town and Country Planning (Development Management Procedure) (England) Order 2010. Policy CP24 of the LPP1 reflects this and only seeks affordable units on schemes of 10 or more dwellings. The provision of affordable housing is therefore not a policy requirement for this development proposal.
- 3.12 *Housing Density*  
Policy CP23 of the LPP1 seeks to ensure that a minimum density of 30 dwellings per hectare are provided on all new developments. However, Policy CP23 makes clear that this is unless specific local circumstances indicate that this would have an adverse effect on the character of the area.
- 3.13 It is noted that committee members and residents would like to see a lower density scheme with fewer houses, whilst others would like to see a higher density scheme to secure affordable housing. Either option would significantly alter the character and description of the proposal, and therefore cannot be considered as part of this current application. A separate application would need to be submitted for this to be considered, and the applicant wishes the current scheme to be assessed on its own merits.
- 3.14 In that regard, officers remain of the view that the density of the scheme as proposed is appropriate for the character of the area and is acceptable for the reasons outlined below.
- 3.15 Paragraph 119 of the NPPF states that *“Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”*
- 3.16 Paragraph 124 of the NPPF goes on to say that when assessing whether development makes efficient use of land the following should be taken into account:
- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
  - b) local market conditions and viability;
  - c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;

- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places.

- 3.17 The application site is located within a village location where surrounding development consists of two storey and two and a half storey dwellings set off their boundaries with front and rear gardens and driveways and garages. It is considered that the proposed development is reflective of the character and appearance of the area and responds positively to the site and its surroundings.
- 3.18 The application site is surrounded by residential development, and it is therefore necessary to ensure that both existing and future residents are not harmed through overlooking or dominance. The councils design guide sets out the minimum distances that need to be achieved to ensure people feel comfortable in their own home. The layout of dwellings has been carefully designed to ensure that these minimum distances have been met.
- 3.19 The application site is accessed from Kiln Lane to the south, which is a public right of way, off Steventon Road to the east. Consideration has been given to ensure that the associated traffic movements would not impact on highway safety and users of the public right of way. The highways officer has raised no objections to the scheme, subject to matters that can be appropriately dealt with by condition.
- 3.20 The proposal is also required to mitigate the loss of trees and habitats. The layout indicates that there is sufficient space for meaningful landscaping and tree planting which will soften the proposed development and help to mitigate the loss of vegetation previously removed. A landscaping scheme is to be secured by condition to determine the location, species and size of the trees and hedges to be planted.
- 3.21 The application is also constrained in the northern end of the site where there is a steep incline of approximately 3.0 metres in height. This has restricted development in this area, and consideration had to be given to ensure that dwellings retain useable garden space.
- 3.22 Taking all of the above into account, which are material planning considerations, officers are of the view that the density of the scheme is appropriate and makes efficient use of land whilst maintaining the character of the area and achieves a well-designed and attractive development.
- 3.23 **Further information on land contamination and flood risk issues**  
Committee members raised concerns regarding land contamination and flood risk issues and sought assurance on details being agreed through planning conditions.

3.24 Paragraph 55 of the NPPF sets out that:

*“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”*

3.25 The Planning Practice Guidance also states that *“statutory consultees and other third parties can suggest conditions to mitigate potential impacts and make a development acceptable in planning terms”* (Paragraph 016 Reference ID:21a-016-20140306).

3.26 *Contamination*

The contaminated land officer has recommended a planning condition for a phased contaminated land risk assessment to be carried out prior to the commencement of development. This is broken down into three phases:

- Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.
- Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and if significant contamination is identified to inform the remediation strategy.
- Phase 3 requires that a remediation strategy be submitted to and approved by the LPA to ensure the site will be rendered suitable for its proposed use.

3.27 The application has been supported by a Preliminary Contamination Risk Assessment which has been reviewed by the councils contaminated land officer, who has advised that previously land contamination has the potential to impact the development from the former brick and tile works. There have also been reports of alleged deposition of oil drums and vehicles in the onsite pond that need to be investigated. The contaminated land officer confirmed that a phased contaminated land risk assessment would be required, however this can be appropriately addressed through a planning condition.

3.28 Following the deferral of the application on 20 April, officers have sought further advice from the contaminated land officer to clarify whether this information needs to be provided prior to the determination of the application. The contaminated land officer has confirmed that his previous comments provided on 17 February 2022 still apply, and that the phased contaminated land risk assessment can be dealt with appropriately by condition.

3.29 Officers are therefore of the view that requesting a phased contaminated land risk assessment prior to the determination of the application is not reasonable or necessary and would place an unreasonable financial burden on the applicant at this stage. Officers remain of the view that this can be addressed satisfactorily through a planning condition.



3.30 *Flood Risk and Drainage*

The application has been supported by a Drainage Strategy Report that has been reviewed by the drainage engineer. The drainage engineer has recommended planning conditions requiring the submission of a sustainable drainage scheme, a foul drainage scheme, and a SUDS compliance report.

3.31 Following the deferral of the application on 20 April 2022, officers have sought further advice from the drainage engineer to clarify whether the level of information submitted is sufficient and if any further information is required to be submitted prior to the determination of the application.

3.32 The drainage engineer has confirmed the following:

*“The information provided from the applicant demonstrates that the existing pond on site has no drainage function, therefore I have no objections to it being infilled.*

*The applicant has demonstrated a surface water drainage scheme which utilises below ground storage, with a restricted discharge into a Thames Water public surface water sewer. At present there is a flow control upstream of the pump restricting discharge from the tank to the pump at 0.9l/s. The pump itself will also need to be restricted to 0.9l/s to achieve the rate agreeable with Thames Water. Therefore, the flow control manhole will not be required, as the pump duplicates this function.*

*With regards to water quality, the current scheme of below ground attenuation does not address this. However, I am confident that permeable paving can be utilised to provide water quality benefits without requiring layout changes, and if surface finishes have not currently been agreed, can be dealt with via an appropriate drainage condition.”*

3.33 Officers therefore consider that requesting a sustainable drainage scheme and foul water drainage scheme prior to the determination of the application is not reasonable or necessary and again would place an unreasonable financial burden on the applicant at this stage. As such officers remain of the view this can be appropriately addressed through planning conditions.

3.34 *Conditions*

It is acknowledged that committee members raised concerns with the number of suggested conditions to be imposed. Conditions have been suggested by the forestry officer, contaminated land officer, drainage engineer, countryside officer and the Highways Authority to mitigate the impacts of the proposal and make the proposed development acceptable. Other conditions relate to minor details that do not materially alter the scheme.

3.35 Government advice is clear that *“conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach*

*conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable” (Paragraph 001 Reference ID: 21a-001-20140306).*

- 3.36 Officers are always mindful of Government advice on the use of planning conditions and to only impose planning conditions where they satisfy the requirements of Paragraph 56 of the NPPF. This requires conditions to be “...*necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*”.
- 3.37 The number of conditions suggested is not therefore a reason to withhold permission. Officers consider the identified impacts of development can be mitigated through the suggested planning conditions to make it acceptable.
- 3.38 In accordance with S100ZA(6) of the Town and Country Planning Act 1990 (a), all pre-commencement conditions have been agreed with the applicant.
- 3.39 **Community Engagement**  
Whilst developer engagement with the community is encouraged, it is not mandatory and therefore not a valid reason to refuse the application. The council have engaged with the community through planning consultations in accordance with the Council’s own Statement of Community Involvement and representations from interested parties have been received. Officers consider there is no requirement for further consultation ahead of a decision being made.

#### 4.0 **CONCLUSION**

- 4.1 This application has been assessed on its merits and determined in accordance with the development plan unless material considerations indicate otherwise. This council has a five year supply of housing land and the development plan accords with the NPPF. Consequently, as the Local Plan policies are fully consistent with the NPPF and housing supply policies are not out of date, they attract full weight.
- 4.2 The proposed development is located within the built-up area of Drayton, a larger village, where there is a presumption in favour of sustainable development. The proposed layout, density and housing mix is considered appropriate for the site given the identified site constraints and the proposed development responds positively to the site and surrounding area. There are no significant adverse impacts on the amenities of neighbouring properties, and no adverse impact on highway safety. There are no technical objections to the proposal, subject to appropriate conditions.
- 4.3 Overall, the proposed development is considered to comply with the relevant policies within the Development Plan, the Drayton Neighbourhood Plan and the NPPF. Officers therefore recommend approval of the proposed development.

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

**Vale of White Horse Local Plan 2031 part 1 policies:**

- CP01 - Presumption in Favour of Sustainable Development
- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP08 - Spatial Strategy for Abingdon-on-Thames and Oxford Fringe Sub-Area
- CP08A - Additional Site Allocations for Abingdon-on-Thames and Oxford Fringe Sub-Area
- CP22 - Housing Mix
- CP23 - Housing Density
- CP33 - Promoting Sustainable Transport and Accessibility
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP39 - The Historic Environment
- CP40 - Sustainable Design and Construction
- CP42 - Flood Risk
- CP44 - Landscape
- CP46 - Conservation and Improvement of Biodiversity

**Vale of White Horse Local Plan 2031 part 2 policies:**

- DP02 - Space Standards
- DP16 - Access
- DP21 - External Lighting
- DP23 - Impact of Development on Amenity
- DP24 - Effect of Neighbouring or Previous Uses on New Developments
- DP27 - Land Affected by Contamination
- DP28 - Waste Collection and Recycling
- DP36 - Heritage Assets
- DP37 - Conservation Areas
- DP38 - Listed Buildings

**Drayton Neighbourhood Plan policies:**

- P-LF2 – Bounded Development
- P-LF3 – Building Design Guidance
- P-LF4 – Conservation area
- P-LF5 – The Historic Environment
- P-LF6 – Additional Greenery
- P-WP1 – Connected Development
- P-S1 – Biodiversity
- P-H1 – Scale of development and site allocation
- P-H3 - Contributions
- P-H4 – External Facilities

**Supplementary Planning Documents (SPD)**

Design Guide – March 2015

**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;**

- Community & Infrastructure Levy Legislation
- Human Rights Act 1998
- Section 149 of the Equality Act 2010
- Section 17 of the Crime and Disorder Act 1998
- Town and Country Planning (Development Management Procedure) (England) Order 2015 (amended)

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