

<b>APPLICATION NO.</b>	<a href="#">P20/V2298/FUL</a>
<b>SITE</b>	Land at Yarnells Hill, Oxford
<b>PARISH</b>	NORTH HINKSEY
<b>PROPOSAL</b>	Erection of three detached dwellings, including access and landscaping (As amended by drawings and information received 27 July 2021 and amplified by consultants reports received 8 September 2022 and additional information received 10 October 2022)
<b>WARD MEMBER(S)</b>	Debby Hallett Emily Smith
<b>APPLICANT OFFICER</b>	J Banfield Martin Deans

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## **RECOMMENDATION**

**Planning Permission subject to the following conditions:**

### **Standard**

- 1. Commencement in 3 years**
- 2. Approved plans**

### **Pre-commencement**

- 3. Landscaping Scheme - Submission**
- 4. Details of Materials**
- 5. Foul Water Drainage Details**
- 6. Surface Water Drainage and Maintenance**
- 7. Slab Levels of Dwellings**
- 8. Construction Environment Management Plan**
- 9. Construction Water Quality Management Plan**
- 10. Scheme for Monitoring Construction**
- 11. Landscape and Ecology Management Plan**
- 12. Tree Protection During Construction**
- 13. Maintenance of Surface Water Drainage System**

### **Prior to occupation**

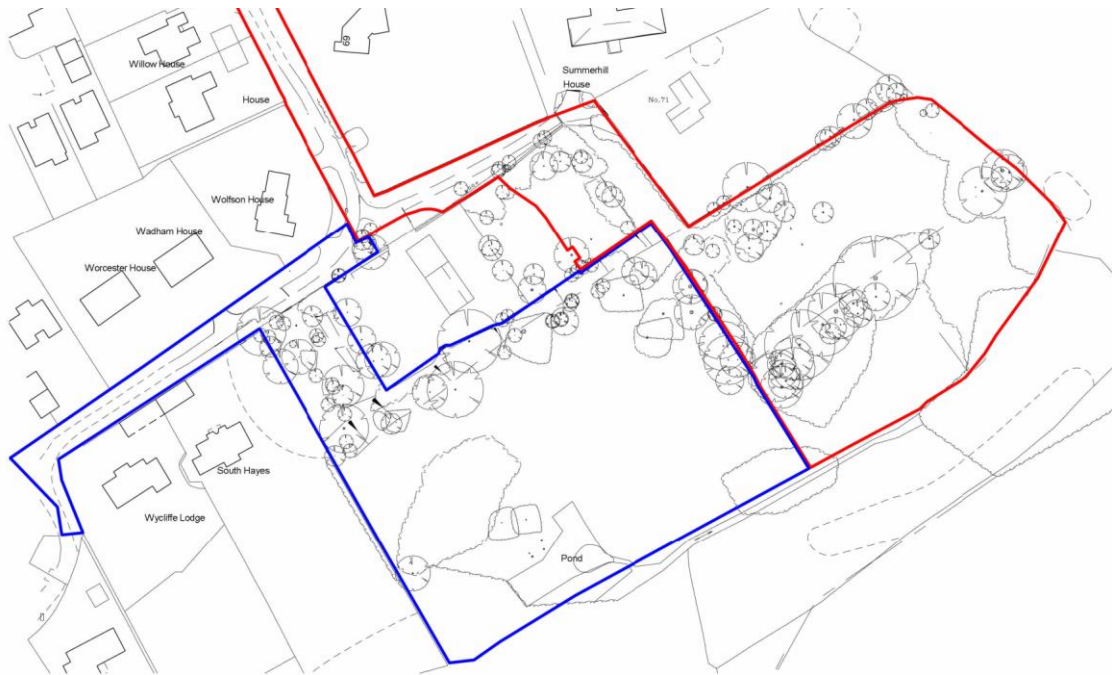
- 14. Landscaping Scheme - Implementation**
- 15. General Boundary Details**
- 16. Boundary Detail with the Neighbouring Dwelling at Yarnells**
- 17. Driveway Improvements and Access to the Development**
- 18. Visibility Splays**
- 19. Car Parking**
- 20. Turning Space**
- 21. Bicycle Parking**
- 22. Electric Vehicle Charging Points**

**Compliance**

- 23. Removal of Permitted Development Rights for Extensions, Outbuildings and Hard surfaces**
- 24. Removal of Permitted Development Rights for Boundary Treatments**
- 25. Garages and Car Ports Retained for Parking**
- 26. Curtilages to Remain as Defined on Site Layout Plan**

**1.0 INTRODUCTION AND PROPOSAL**

- 1.1 This application comes before committee at the request of one of the local ward councillors, Debby Hallett. The application site is approximately 0.8 hectare in area and lies to the south-east of the private section of Yarnells Hill.
- 1.2 The site consists of two co-joined parcels of land. The smaller parcel lies to the east of a dwelling called Yarnells. The other, larger parcel lies to the south of Sweetmans Cottage and to the west of Raleigh Park. Raleigh Park is a public park held in trust by Oxford City Council and is 11 hectares in area. An accredited Local Wildlife Site (LWS), the Park is managed in conjunction with BBOWT and local groups, and contains important grassland and fen habitats.
- 1.3 The application site lies next to an existing unmade access road of single width, running from Yarnells Hill, and which serves three dwellings, Yarnells, Summerhill House and Sweetmans Cottage. Local slopes fall markedly to the south and east and both parcels slope down in these directions. There are a significant number of mature trees on and around the site, some of which are subject to a tree preservation order (98/V12). Three badger setts lie to the west of the larger parcel within land also owned by the applicant.
- 1.4 The site lies within the local plan boundary of Botley. It is bounded to the south and east by the Green Belt, but it is not in the Green Belt. The site location plan is below with the application site edged in red and adjacent land in the ownership of the applicant edged in blue. Extracts from the application drawings are **attached** at Appendix 1



- 1.5 The proposal is to build three detached, contemporary-style houses on the site. House 1 will occupy the smaller parcel next to Yarnells. Houses 2 and 3 and their gardens will occupy approximately 40% of the larger parcel, in the north-west segment. House 3 will lie approximately 35m from the boundary with Raleigh Park. The rest of the larger parcel will be undeveloped apart from a surface water drainage basin and swale. The unmade access road will be widened to 4.1m and will be surfaced in permeable materials for drainage. An extract from the site layout with the proposed houses marked 1, 2 and 3 is below.



- 1.6 The application was due to be presented to the committee on 29 September 2021 but was withdrawn from the agenda to enable the commissioning by the

council of independent consultants’ reports on the surface water drainage and ecological impacts of the development on the irreplaceable spring-fed alkaline fen habitat in Raleigh Park. The spring-fed alkaline fen is categorised as irreplaceable habitat by the NPPF. The consultants’ reports were delayed by constraints caused by coronavirus pandemic and were completed in September 2022. They recommend that the proposal is acceptable subject to additional information, which was submitted by the applicants in October 2022. The reports and additional information have been the subject of re-consultation.

1.7 The application has been amended, once in July 2021 and again, as mentioned above, in September/October 2022. The amendments have been the subject of re-consultation. The amendments can be summarised as follows:

**July 2021**

- Slight amendment to red line site area
- Amendments to the design of the proposed houses
- Additional drainage and ecology information in response to concerns

**September/October 2022**

- Receipt of independent consultants’ reports
- Amended drainage information in response to consultants’ reports

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

2.1 The following is a summary of representations that have been received. The representations are contained in full on the planning application page of the council’s website [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk).

<p><b>North Hinksey Parish Council</b></p>	<p>Object for the following summarised reasons:</p> <ul style="list-style-type: none"> <li>• Harm to sensitive, irreplaceable ecology in Raleigh Park and to badgers on the site</li> <li>• Overdevelopment of the site</li> <li>• Inappropriate design</li> <li>• Loss of light to neighbours</li> </ul>
<p><b>Local Residents</b></p>	<p>57 representations of objection on the following summarised grounds:</p> <ul style="list-style-type: none"> <li>• Overdevelopment</li> <li>• The designs are out of keeping</li> <li>• Overlooking</li> <li>• Loss of light</li> <li>• It is inappropriate to develop the site given its current mature verdant state and the variety of wildlife it supports</li> <li>• The site represents one remaining local oasis which should be retained to protect wildlife</li> <li>• There will be a hydrologically damaging impact on the spring-fed alkaline fen in Raleigh Park, an</li> </ul>

	<p>irreplaceable habitat, from construction, and over time</p> <ul style="list-style-type: none"><li>• The effects of the development will lead to the destruction of associated peat formations on the valley sides and in the Park releasing trapped carbon and contributing to climate change</li><li>• Pollution from the likely leakage of foul water from drains which will add dangerously to existing recorded levels of pollutants</li><li>• Any mechanical failure of the proposed foul water pump will lead to uncontrolled pollution of the fen</li><li>• The development as a whole covers far more of the undeveloped part of the fen catchment than stated, as much as 1%</li><li>• The development will interrupt ground water supply to the fen that is already under documented pressure from drought this year, and likely to remain so due to predicted climate change</li><li>• The method of assessment of surface water drainage is inappropriate for the particular circumstances of natural water supply to the fen</li><li>• The SUDs is no substitute for natural infiltration and water flowing into the fen</li><li>• The SUDs will concentrate flows with damaging effect to peat deposits</li><li>• The SUDs will silt up over time and cause further pollution</li><li>• The SUDs will increase the acidity of water entering the fen to its detriment</li><li>• The SUDs is over-sized and the storm event data used for its design is inaccurate</li><li>• There has been no investigation of how the development will affect the complex ground water flows that feed the fen</li><li>• The loss of hard-earned community biodiversity gains achieved by teams of volunteers</li><li>• The independent consultant's reports are inadequate due to the use of inappropriate methodology and inaccurate data</li><li>• Harm to existing badgers through proposed relocation of an existing, well established sett, and the likely failure of the relocated sett</li><li>• Harm to badgers through likely scattering of, and resulting harm to, individual badgers if a sett is disturbed</li><li>• Loss of foraging area for badgers which will lead to reduced numbers</li><li>• Likely loss of further trees to provide the relocated sett</li></ul>
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	<ul style="list-style-type: none"> <li>• The submitted biodiversity metric is flawed and inaccurate</li> <li>• Loss of trees and other wildlife in general</li> <li>• Future pressure on trees from residents</li> <li>• Impacts on trees and wildlife have been underestimated</li> <li>• Additional traffic onto a narrow, unsuitable road</li> <li>• Lack of adequate vision at the junction of the access and at the junction with Lime Road to the detriment of safety</li> <li>• Increased potential for traffic conflict with pedestrians./cyclists, and with larger delivery and waste vehicles</li> <li>• Inadequate means of collecting refuse/recycling</li> <li>• Inadequate access for refuse vehicle, emergency vehicles and construction traffic</li> <li>• There has been too much recent development locally with inadequate infrastructure</li> <li>• Lights from vehicles will cause glare in windows</li> <li>• The representation of Sweetmans Cottage is inaccurate</li> <li>• Surface water flooding</li> <li>• Impact on existing foul water drainage</li> <li>• Material to be removed from construction of the drainage basin</li> <li>• Damage to the road and to a neighbouring septic tank</li> <li>• The site is not within the established settlement</li> <li>• Inaccurate information has been submitted</li> <li>• The information on land ownerships is incorrect</li> </ul>
<p><b>Oxford City Council</b></p>	<p>Object on the grounds of damaging impact on the spring-fed alkaline fen in Raleigh Park, which has been restored after significant investment, due to</p> <ul style="list-style-type: none"> <li>• Increased surface water run-off</li> <li>• Contaminated surface water run-off</li> <li>• Foundations interrupting ground water flows</li> </ul>
<p><b>BBOWT</b></p>	<p>Object on the following summarised grounds</p> <ul style="list-style-type: none"> <li>• excessive risk of deterioration and loss of the irreplaceable spring-fed alkaline fen in Raleigh Park – the risk will only increase in the future due to further creep of hard surfaces</li> <li>• loss of a vital ecological buffer to the Park provided by the site</li> <li>• the inadequate mitigation measures</li> </ul>
<p><b>CPRE</b></p>	<p>Object on the grounds of deterioration and loss of the spring-fed alkaline fen in Raleigh Park</p>

<p><b>Oxfordshire Badger Group</b></p>	<p>Object on the following summarised grounds</p> <ul style="list-style-type: none"> <li>• An important existing main badger sett will be lost. The proposed relocation of this sett to the adjacent woodland is unlikely to be successful due to poor drainage and less favourable access to foraging – the two other existing outlier setts in the woodland have not developed due to these issues</li> <li>• The site provides important foraging for badgers which will be lost</li> <li>• The development will lead to a net loss of biodiversity and place future pressure on TPO'd trees</li> <li>• The development will cause deterioration and loss of the very rare alkaline fen in Raleigh Park</li> <li>• The submitted biodiversity metric is flawed</li> <li>• The way the application has been dealt with should be scrutinised – there has been inaccurate information on the website, a drip feed of information, and an inadequate time for consultations to be considered</li> <li>• The consultants' reports contain no new information and are disputed by local experts with far more relevant knowledge</li> <li>• The Vale has a five-year supply of housing and the development is not needed</li> </ul>
<p><b>Friends of Raleigh Park</b></p>	<p>Object for the following summarised reasons</p> <ul style="list-style-type: none"> <li>• There will be deterioration and loss of irreplaceable fen from the drainage proposals due to the interruption in the natural flow of water, and the contamination of the water, entering the fen</li> <li>• There will be damage to the fen from likely future leaks for the foul water drainage system</li> <li>• The proximity of the site to the fen means the effect will be more direct than for other sites</li> <li>• The site in its undeveloped state should be considered as a contributory part of the fen</li> <li>• Water from garden irrigation, including grey water, and the use of garden fertilisers will not be captured by the drainage system</li> <li>• The applicant's consultants show little understanding of the fen and have not engaged with published research or local groups</li> <li>• There will be a net loss of biodiversity including the relocation of the badger sett</li> <li>• The independent consultants' reports are inaccurate and provide insufficient assurance regarding the impact of the development on the fen</li> </ul>

	<ul style="list-style-type: none"> <li>• There is insufficient detail regarding the operation of the SUDs</li> <li>• Proposed biodiversity mitigation is likely to be inadequate and may interfere with fen management and research</li> </ul>
<b>Countryside Officer</b>	<p>The Countryside Officer has assessed the three main ecological issues as follows:</p> <p><u>Biodiversity impact</u> He is satisfied that a net gain can be achieved with suitably worded planning conditions</p> <p><u>Impact on badger</u> The relevant tests in policy CP46 of LPP1 are triggered, which are</p> <ul style="list-style-type: none"> <li>• The need/benefit of the development and whether this outweighs the harm – to be considered in the planning balance</li> <li>• Are there any reasonable alternatives in terms of layout to avoid the harm – to be considered in the planning balance</li> <li>• Can the likely harm be mitigated or compensated</li> </ul> <p>Applying more stringent European Protected Species tests than are required by law for badgers, and his own experience of replacement sett construction in accordance with best practise, the Countryside Officer concludes that a derogation license for closure of the existing sett is likely to be granted by Natural England and that, provided the first two tests in policy CP46 are met, he considers the proposed mitigation of a replacement sett is acceptable</p> <p><u>Impact on the Alkaline Fen</u> The development poses a risk to the fen. Provided the proposed drainage system operates at optimum then the existing greenfield hydrological characteristic of the site and interactions with the adjacent fen may continue – should the drainage system fail or become less efficient than adverse impacts may occur.</p> <p>He does not support the application due to this risk, but on the basis of the technical information submitted, he does not object to the application subject to conditions.</p>
<b>Drainage Engineer</b>	No objection to surface water and foul water details subject to conditions
<b>Thames Water</b>	No objections on the grounds of sewer capacity



<b>County Highways Officer</b>	No objections subject to conditions
<b>Forestry Officer</b>	No objections subject to conditions but is concerned that the proposed boundary treatment for the neighbour at Yarnells is likely to constrain the adjacent Walnut tree from achieving full maturity
<b>Landscape Architect</b>	No objections subject to a landscaping plan
<b>Waste Management Officer</b>	No objections

### 3.0 **RELEVANT PLANNING HISTORY**

#### 3.1 [P17/V1862/O](#) - Withdrawn (22/06/2018)

Erection of 4 x detached family dwellings including access

#### [P02/V1200/O](#) - Withdrawn (11/08/2003)

Erection of a detached dwelling

### 4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 The Town & Country Planning (Environmental Impact Assessment) Regulations 2017 govern the requirements for the screening of planning applications for Environmental Impact Assessments. Housing developments potentially fall within Schedule 2 of the Regulations if any part of the development is within a sensitive area, or if the development exceeds specific thresholds of size (the thresholds are a development of more than 150 dwellings or a site area of more than 5 hectares). The development will not be within a sensitive area as defined in section 2 of the Regulations and does not exceed the thresholds of size contained in Schedule 2. In view of this, the proposal is not considered to require screening for an EIA.

### 5.0 **MAIN ISSUES**

#### 5.1 **The Principle of Development**

Section 70(2) of the Town & Country Planning Act, 1990 and section 38(6) of the Planning and Compulsory Purchase Act, 2004 require that an application for planning permission must be determined in accordance with relevant policies of the development plan unless there are material considerations that indicate otherwise. The courts have determined that the exercise of this duty requires the decision-maker to consider whether or not the proposal accords with the development plan as a whole (eg *BDW Trading v Secretary of State, 2016* ).

5.2 Paragraph 11 of the NPPF states that planning decisions should apply a presumption in favour of sustainable development, which means:

- i) Approving proposals that accord with an up-to-date development plan without delay, or
- ii) Where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date, granting permission unless:
  - The application of policies within the NPPF that protect areas or assets of particular importance provides clear reason for refusing the development proposed, or
  - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole

5.3 On 3 December 2021 LPP1 was reviewed under Regulation 10(A) of the Town & Country Planning (England) Regulations 2012 to ensure it is consistent with the NPPF. This review concluded that LPP1 is consistent with the NPPF and that its policies are up-to-date. On this basis, following paragraph 11 of the NPPF, officers consider the proposal can be determined in accordance with the development plan.

5.4 Paragraph 23 of the NPPF states that local plan strategic policies “should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area.”

5.5 Paragraph 60 states that the Government’s objective is to significantly boost the supply of homes. Paragraph 69 states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and that local planning authorities should support the development of non-allocated, “windfall” sites, giving “great weight” to the benefits of using suitable sites within existing settlements for homes (paragraph 69 (c)).

5.6 Court decisions following the introduction of the NPPF in 2012 (eg *St Albans Council v Hunston Properties, 2013*, and *South Northamptonshire Council v Secretary of State 2014*) confirmed that the wording used in the NPPF, requiring a local planning authority to determine a figure for its objectively assessed housing need, and to then show how this need will be met as a minimum through housing policies, all to support the Government objective of a significant boost in the supply of housing, is a significant change in the nature of the planning balancing exercise for housing policy when compared to previous national planning guidance. In previous guidance provision of housing was considered as part of an overall balance with other material considerations. In short, the NPPF has elevated the importance of achieving the assessed housing need relative to other policy considerations.

5.7 Court decisions have also confirmed that, due to the Government objective of significantly boosting the supply of homes, the presence of a five-year supply of housing does not mean that the weight that is attached to meeting a council’s

housing need should diminish (eg *Wokingham Brough Council v Secretary of State 2019*).

- 5.8 The site area lies within the Local Plan boundary of Botley and is not in the Green Belt. Policies CP3 and CP4 of LPP1 (supplemented by policy CP4a of LPP2) are the strategic policies that form the Spatial Strategy of the council for achieving its housing supply target, including the council's contribution to Oxford's unmet need. Policies CP3 and CP4 support sustainable housing development within the Local Plan boundary of Botley. Botley is defined as a Local Service Centre and is seen as a sustainable location for housing.
- 5.9 Housing development on the site is a windfall proposal and accords with the Spatial Strategy. Therefore, there is a presumption in favour of sustainable housing development on the site.
- 5.10 Conclusion and Weighting  
Officers consider the wording of the NPPF and the court decisions referred to above serve to underline the importance that is attached to supporting housing proposals that accord with an up-to-date local plan. The weight to be attached to such proposals in the overall planning balance should reflect this. Consequently, officers consider significant weight should be attached to this consideration in the planning balance.
- 5.11 **Design and Impact on the Area**  
Policies CP37 of LPP1 and policies HS1, and HS2 of the North Hinksey Neighbourhood Plan (NHNP) requires all new development to be of good quality design. The proposed houses are of contemporary design, each using split levels across three storeys to accommodate the local slopes. Walls will be of timber and brick, and roofs will be of metal. Some roofs will be used for solar panels and green planting. Taking into account levels, the houses will be between 9m and 12m high. This accords with the height limits for new housing in policy HS2 of the NHNP.
- 5.12 Objectors are concerned that the designs are modern and out of keeping. Members are aware that contemporary design approaches cannot be dismissed in principle. The designs are considered to have significant articulation and a domestic scale. Overall, they are considered to exhibit a good quality of design, and an appropriate split-level approach to the sloping nature of the site which minimises the use of retaining walls.
- 5.13 Objectors consider that House 1 represents overdevelopment. The house will have a private garden of over 100sq.m, which complies with the minimum standard in the design guide. It will have further garden space of over 200sq.m, a large balcony of approximately 20sq.m, and parking for 4 cars. Using these measures, officers do not agree that it represents overdevelopment.
- 5.14 House 2 and House 3 will each have private gardens in excess of 200sq.m as well as large balconies. Given the overall site area of 0.8ha, the density of the development is just less than four dwellings per hectare. This is directly

comparable to surrounding plot densities and, again, does not indicate overdevelopment of the site.

5.15 In view of the rural context of the site, it is recommended that permitted development rights for boundary treatments are removed.

5.16 Conclusion and Weighting

The design of the proposal and its impact on the area are considered to be acceptable and this is considered to weigh in its favour

5.17 **Impact on Neighbours**

Policy DP23 of LPP2 requires all new development to safeguard neighbours' amenities to avoid harm, principally from overlooking, loss of light, and dominance. The neighbouring houses potentially most affected will be Yarnells and Sweetmans Cottage. The rear elevation of Yarnells will face the west elevation of House 1. There will be no windows in this elevation of House 1, and the balcony will be completely screened. Consequently, no harm from overlooking will occur. House 1 will lie over 31m from the rear of Yarnells, and to the east. Therefore, it is likely that any additional overshadowing of the garden from the development will be too limited to qualify as harm.

5.18 Sweetmans Cottage is currently surrounded to the west and south by a tall coniferous and deciduous tree screen, generally 4 – 5m in height. Planning permission exists to replace the existing house with a larger contemporary design. This replacement house has been shown on the application drawings, which has been criticised, but the applicants state this is because it will be closer to the development site, and so the impact can be more fairly assessed.

5.19 The nearest upper floor window of House 1 will be 15m from the boundary with Sweetmans Cottage, and over 25m from the existing or approved house. The respective distances for House 2 will be 11m and 30m, while for House 3 they will be 15m and 30m. Officers consider that, even if the existing tree screen is lost, these distances are sufficient to protect the privacy of the occupants of Sweetmans Cottage, and to avoid harm from loss of light.

5.20 Conclusion and Weighting

The impact of the development on neighbours is considered to be acceptable, and this weighs in favour of the application

5.21 **Biodiversity and Drainage**

These two material considerations are closely linked and will be considered together. Policy CP46 of LPP1 and policy GS2 of NHNP seek to protect and enhance biodiversity in connection with development. Policy CP44 seeks to ensure that the risk of flooding is minimised. The majority of objections to the proposal concern impact on biodiversity, specifically biodiversity loss, impact on the local badger population, and impact on the spring-fed alkaline fen along the watercourse to the south (the Long Tongue) and in Raleigh Park, which is categorised as irreplaceable habitat.

- 5.22 Paragraph 180 (c ) of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats should be refused unless there are wholly exceptional reasons (eg infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat), and a suitable compensation strategy exists.
- 5.23 The Countryside Officer has carefully assessed all three key biodiversity issues as follows.
- 5.24 Biodiversity Loss  
A biodiversity metric has been submitted to demonstrate the net effect on existing biodiversity. Objectors consider the metric to be flawed, but officers consider it complies with national guidance. Officers consider that a net gain in biodiversity can be achieved subject to the submission of a Landscape and Ecology Management Plan to secure future improvements.
- 5.25 Impact on the Badger Population  
Three badger setts exist to the west of the site in land owned by the applicant (edged blue on the location plan). There is a main sett and two outlier setts. The main sett lies close to the site of House 1 and the proposed access, and there is clear potential to damage the sett with risks to the badger population.
- 5.26 With regard to the impact on the existing sett, the relevant tests contained in policy CP46 of LPP1 have been applied. The presumption in favour of housing development on the site, in accordance with the Spatial Strategy contained in policies CP3 and CP4 of LPP1, mean there is a need for the development to maintain housing supply. It is considered that the site cannot be reasonably developed in any other way given the need to obtain vehicular access. In terms of available mitigation, the applicants propose that a replacement sett is constructed in the land to the west of the site owned by the applicant.
- 5.27 To authorise the closure of a sett, a derogation license from Natural England is necessary. In the circumstances, officers consider this is likely to be granted. Therefore, it is considered that the proposed replacement sett is an acceptable form of mitigation. The details will be controlled as part of a Construction Environment Management Plan.
- 5.28 The land where the replacement sett is proposed, which is most of the land edged in blue on the location plan, to the south of Yarnells, is approximately 1ha in area and has within it a number of trees, but only 21 that are protected by a TPO (98/V12). Objectors believe the replacement sett is unlikely to be successful, and that the process of achieving it is likely to damage more significant trees through excavation. Site visits have confirmed that there are sizeable spaces between the protected trees, of the order of 40 – 50m, where it is reasonable to conclude that, with appropriate controls in place, a replacement sett could be provided. There are a significant number of trees on the land which are of relatively low quality. The 21 larger protected trees on the site are important in terms of providing a background canopy that can be seen from a distance, at least 50m from Yarnells Hill, and at least 100m from Raleigh Park. However, officers consider there is scope for the potential loss of some of

the poorer trees, if necessary, to enable sett creation without harming the important contribution that the more significant canopies of the TPO'd trees provide to surrounding amenity.

- 5.29 In terms of the planning balancing exercise, officers are satisfied that the details of providing a replacement sett can be covered by condition. Officers consider that the suggested Construction Environment Management Plan will give sufficient control over this process.
- 5.30 Objectors are also concerned over loss of foraging for the local badger population. Officers accept that some existing foraging area will be lost, but it is considered that there will be sufficient foraging potential remaining, as well as suitable connectivity, to give acceptable potential for foraging and finding food supplies.
- 5.31 Impact on the Alkaline Fen in Raleigh Park  
The spring-fed alkaline fen to the south of the site and on Raleigh Park is an extremely rare habitat in the UK. The NPPF defines lowland fen as irreplaceable habitat.
- 5.32 Objectors argue that the sensitivity of the fen to a particular water quality, alkaline composition, and amount, is critical to its survival. There is an area of fen to the south of the site, in the stream valley, known as the Long Tongue, and larger areas to the east of the site within the Park. These are fed by groundwater seepage and springs that exist due to specific local geology. There are strong concerns that the development will inevitably affect the quality, the chemical composition, and the amount of water entering the fen and cause deterioration. The concerns include the fact that the Long Tongue fen is aligned along the watercourse that surface water drainage from the proposal will enter.
- 5.33 The applicants state that they have carefully designed the surface water drainage system to counter the concerns. Evidence shows groundwater lies several metres below ground level, so they state that the house foundations should not affect groundwater flows. The sustainable surface water drainage system has been designed using SUDs principles, with permeable road and other surfaces, and pollutant interceptors. Storm water from larger events from the houses and driveways will be collected underground and flows will be attenuated to the greenfield rate by storage, when necessary, in a shallow, lined basin, 1m deep, to the east of House 3. From there, water will be released at a controlled rate to a stepped, planted swale, 30m long. The swale is designed to further slow water flows, and to reduce pollutants, and will terminate 12m from the stream to allow water to disperse and run overland into the stream. This section of overland flow is designed to remove the risk of scouring of the bank of the watercourse and potential damage to the Long Tongue fen and any associated peat deposits.
- 5.34 The applicants state that the combined features of this system, with pollutants removed at every stage through sustainable drainage design, and the run-off no worse than the greenfield rate, will prevent loss or deterioration of the fen.

Objectors disagree, believing the system will disrupt existing natural flows and that water leaving the drainage system will be more acidic than the natural alkaline stream water and so harmful to the fen and potentially to the underlying peat deposits. They also point to the potential for the effectiveness of the system to decline over time due to issues such as silting. The applicants have countered this by agreeing to a maintenance programme for the drainage system to ensure it is regularly inspected and cleaned.

5.35 Foul drainage will be dealt with by pumping from the site to the existing system on the main road. Thames Water has confirmed it has no objection to the connection of the development to the existing sewer. Objectors are concerned that the potential for deterioration in the pipework over time will release groundwater pollutants that can harm the fen. The applicants state that this argument is based on too much assumption to be valid in planning terms.

5.36 Independent Consultants

To help with the assessment of this issue, officers have commissioned reports from two qualified and experienced consultants to assess the evidence presented by the applicants and by the objectors in terms of the potential impact on the fen. The content and conclusions can be summarised as follows:

Drainage Report – PJA Consultants

- The size and design of the surface water drainage scheme meets accepted standards
- The three-stage process of pollutant removal from surface water (oil interceptor, attenuation basin and stepped swale) provide a robust approach
- Clarification of the drainage of the access road is required
- Maintenance of the system is of paramount importance
- Permitted development rights should be removed to prevent further inappropriate surfaces being installed

Ecology Report – Aspect Ecology

- There will be no loss of fen as the development will not encroach into the fen
- The potential for deterioration of the fen requires the consideration of potential pollution pathways from the construction of the development and from the subsequent operation of the drainage system as follows

*Construction*

- It is recommended that relatively minor additions are made to the applicant's Water Quality Construction Statement to provide full control over potential pollution sources during construction
- The construction process should be monitored to ensure compliance with the WQCS

*Operation*

- The potential risk from leakage of the foul sewer is considered to be theoretical
- There is no evidence the development will interrupt any spring line or

seepage run on the site, and evidence shows the foundations are unlikely to interrupt groundwater which lies at lower depths

- It is not considered that the development will divert water supply to the fen due to the design of the proposed surface water drainage system
- The risk of the proposed basin diverting water flows is not considered to be significant
- The risk from the chemical balance of the drainage water is considered to be minimal due to the lack of evidence of a spring line on the site with active above or below ground flows, and due to the free flow of drainage water upon exit from the proposed swale
- There is insufficient risk of a reduction in water quality to the fen due to the pollution removal measures contained in the proposed surface water drainage system
- Maintenance of the surface water drainage system is critical

5.37 Therefore, both independent consultants concluded that, with some further information and detail added to the proposal, there is insufficient evidence that the development will lead to a loss or deterioration of the fen. The applicants submitted the additional information in response to the independent reports on 10 October 2022 as follows

- It is confirmed that the access drive is not part of the surface water drainage strategy and will be constructed of permeable materials using SUDs principles. Therefore, there is no change to the calculations for the attenuation basin and swale
- The requested elements have been added to the Water Quality Construction Plan
- The construction process will be monitored
- A maintenance schedule for the surface water drainage system will be agreed
- Permitted development rights for extensions, outbuildings and hard surfaces will be removed

#### 5.38 Other Objections Regarding the Impact on the Fen

##### *Lack of detailed information on hydrology*

Objectors say that the independent consultant's conclusions on the lack of a damaging impact to the water supply to the fen is not properly founded. They say the developer should provide much more detailed information on the nature of the likely complex ground water flows under the site, and of water chemistry, by the digging and monitoring of dipwells for a period of time, suggested to be 12 months, as the nature of the hydrology under the site is unknown. Logging has recorded a drop in water levels in the fen this year due to the drought and it is alleged that the development will contribute to additional stress on the fen through diverting water, so threatening it. Officers consider the request from dipwells on the site falls to be assessed as to whether it is reasonable within the overall planning context of the proposal.

5.39 With any planning application, the decision-maker should identify the relevant material planning considerations and assess the available evidence using a combination of established guidance, accepted practise, specialist advice, and professional expertise. Weight is then attached to the relevant material



considerations within a reasonable framework. The amount of evidence that is required to come to a reasonable conclusion on an issue is a matter of reasoned judgement that is also based on established practise. The expectations placed on an applicant in terms of providing evidence is also set within this reasonable framework.

- 5.40 In this case, the applicant has provided drainage and ecology reports using methodologies that are widely accepted. The unusual nature of the fen, and its acknowledged sensitivity, have led to a further, bespoke refinement of the surface water drainage proposals to address stated objections, and to the council taking the unusual step of engaging independent consultants in order to provide additional professional assessments. The consultants consider that, within the reasonable expectations of the planning process, there is sufficient evidence to arrive at a conclusion regarding the impact of the development. The drought conditions of this year appear to be the most severe since 1976, and it appears unknown at this time whether droughts will become more frequent. In light of all of this, officers consider that the request to establish dipwells and data logging for a period of time is unreasonable.
- 5.41 *The impact of garden chemicals and irrigation*  
There is concern that the use of the gardens associated with the houses will lead to pollution of the groundwater. These concerns are based on assumptions regarding how the gardens will be used. Within the context of the overall planning balance, officers consider this issue is too uncertain to weigh materially against the application.
- 5.42 *Proportion of built area in the catchment*  
The objectors state that the estimated catchment area of the fen is approximately 0.4ha in area, less than half that quoted in the applicant's documents, and that approximately 0.97ha, or 24%, is covered by sealed surfaces (houses and roads), leaving approximately 3.03 ha (303,000 sq.m) with natural cover. It is then alleged that the development will add a further 2,724sq.m of sealed area, comprising 1,362sq.m of houses and drives and 1,362sq.m of access road. Officer measurements indicate that the area of the access road is approximately 800sq.m, not 1,362sq.m, which makes a total for the development of 2,162sq.m. This equates to an increase in built surface of 0.7%, making for a total coverage of the catchment of 25%.
- 5.43 Although the calculation of existing built area includes a number of gardens on the Turner Drive development, which are not built over, it is unlikely that removing these would make a significant difference to the figures. The issue for officers is how much weight to attach to an increase in coverage of 0.7%, when 75% of the catchment will remain with natural cover. Objectors state that the proximity of the development to the fen means it will have an enhanced impact. The site is closer than others to the fen, and this is partly why additional surface water drainage and construction control measures have been requested. However, within the context of the overall planning balance, and with the recommended controls over impacts that are included, officers consider the relatively small increase in coverage resulting from the proposal,

in the context of the catchment as a whole, does not weigh heavily against the proposal.

5.44 *The loss of the effectiveness of the drainage infrastructure*

Objectors are concerned that both the SUDs drainage infrastructure and the foul drainage system will deteriorate over time leading to increased risk of pollution. The applicants have agreed to a maintenance programme for the SUDs, including the access road, as recommended by industry experts like CIRIA, and this can be controlled by condition. With a maintenance condition of this nature in place, one that is also recommended by the independent consultants, officers consider that the concerns regarding the effectiveness of the SUDs is not sufficient to weigh heavily against the proposal. With regard to future leakage from the foul system, or the failure of the pump, this is a matter of supposition which is difficult to weigh in the balance. There is local evidence of nitrate pollution from leaking sewers, but if this is the cause it is likely to be from relatively old pipes built under different regulations. Therefore, there is considered to be insufficient reason to assume that modern installations will suffer from leaks in the same way for this to count significantly against the proposal.

5.45 Conclusion and Weighting

Officers have carefully assessed the various biodiversity issues. With suitable conditions, the proposal can deliver a biodiversity gain. With regard to the badger population, officers consider that the relocation of the main sett is likely to receive a derogation license from Natural England and that the land designated for relocation is likely to provide a suitable opportunity. With regard to the impact on the fen, the independent consultants engaged by the council consider that there is insufficient evidence, within the reasonable expectations of the framework for the consideration of this particular application, to say that the impacts will lead to loss or deterioration of the fen habitat. Consequently, although there are very strong local objections regarding matters such as the closure and relocation of the badger sett, the hydrological sensitivity of the fen and the proximity of the development to it, the increase in catchment coverage, and the loss of effectiveness of drainage infrastructure, when assessed in the overall balance, the degree of certainty of the development leading to harm is not considered sufficient to outweigh the significant weight given to the proposed housing in compliance with the Spatial Strategy

5.46 In view of the concern over the impact of development on local hydrology, officers consider it is reasonable and necessary to remove permitted development rights to extend the houses, to build outbuildings and to lay hard surfaces in the future without planning permission. This is to ensure that the drainage implications of any development are understood before a decision is made.

5.47 **Trees and Landscape**

Policy CP44 of LPP1 requires that key features that contribute to the nature and quality of landscape will be protected and where possible enhanced. Policy GS3 of NHNP requires important views to be retained. The proposal directly involves the removal of a small number of trees. The Forestry Officer considers

the trees shown to be removed have limited impact on the wider landscape setting and has no objection subject to replacement planting. He is also satisfied that the direct impact of the development on the significant trees to be kept is acceptable. This is subject to the tree protection details and construction methods shown for the access road and the houses themselves. Daylight and sunlight studies show that acceptable levels of light should reach each house

- 5.48 The Forestry Officer is concerned about the effect of the proposed boundary wall between House 1 and Yarnells on the growth potential of an existing adjacent Walnut tree. The wall will be built using a specialist bridging foundation to protect the roots, and its line will be deflected around and away from the trunk. In view of these measures, and within the context of the proposal as a whole, officers consider the impact of the wall as specified is acceptable.
- 5.49 The Landscape Officer has assessed the wider landscape impact, principally from Raleigh Park, which is crossed by formal and informal paths. The impacts of potential concern are considered to be from House 2 and House 3. House 3 will be closest to the Park, set back 35m from it. The visual impact of both houses will benefit from existing and proposed tree screening, although less so in Winter. The Landscape Officer notes that the houses will be three storeys, but nevertheless considers that the landscape impact of House 2 and 3 will be localised. Important views of Oxford from Raleigh Park will not be affected, in accordance with policy GS3 of NHNP. Subject to a landscaping plan to secure suitable planting, the wider impact of the development is considered to be acceptable.
- 5.50 Conclusion and Weighting  
The proposals will have some impact on trees and local landscape, but with appropriate landscaping proposals to compliment the development, the impacts are considered to have moderate weight in the balance.
- 5.51 **Traffic, parking and highway safety**  
Policies CP35 and CP37 of LPP1, policy DP16 of LPP2 and policy TR2 of NHNP require safe access and adequate parking to be provided with electric charging points. The existing unmade, single width access road will be widened to 4.1m, which is wide enough to enable two cars to pass. A passing bay will be constructed near to the junction with the main road to enable larger vehicles to wait without obstructing this section of the road. The new section of road leading to the houses will be 4.8m wide. The whole road will be surfaced in permeable materials to help with drainage. It will not be connected to the surface water drainage system for the site but will be maintained to ensure its longer-term effectiveness. No-dig methods will be used to minimise risk to trees, along with protective fencing. The Forestry Officer is content with this. Vehicle tracking shows that the road is large enough to enable a refuse vehicle to access the houses and to turn to leave in forward gear.
- 5.52 Using well-established traffic data sources, it is anticipated that the houses as a whole will generate two trips in each of the peak hours, and 18 movements in total over a 12-hour day. Vision splays suitable for a relatively low speed road

can be achieved at the junction of the access with the main road. Each house will have cycle parking and an electric vehicle charging point.

5.53 Objectors are concerned that the additional traffic will be dangerous given the nature of the road network. However, the County Highways Officer has assessed the proposal and considers the relatively low level of likely additional traffic, combined with the improvements to the road, mean that the development is safe. He knows the locality very well and considers the vision available at the junction of the access and at the junction with Lime Road to meet the appropriate safety standards. Parking for each of the houses meets adopted standards, subject to the retention of the garages/car ports for parking, which can be secured by condition.

5.54 Conclusion and Weighting

With some modifications, it is considered that the traffic from the development can be accommodated safely on the local road network. This consideration is considered to have no overall weight in the balance.

5.55 **Other Issues**

Several objections have been made that are not material planning considerations. One is disputed land ownerships. The applicants have confirmed they believe the ownership details are correct, and ownership disputes are properly resolved via the appropriate legal processes rather than through the planning system. Some objections relate to potential damage to the private road and to other privately owned infrastructure. Members will be aware that there are alternative legal remedies for these issues which means they should not be the subject of planning control.

6.0 **CONCLUSION AND PLANNING BALANCE**

6.1 A planning application must be determined in accordance with relevant policies of the development plan, unless there are material considerations that indicate otherwise. The site lies within the Local Plan boundary of Botley and, under the Spatial Strategy, there is a presumption in favour of sustainable housing development. As the relevant Local Plan policies are considered to be up-to-date, officers consider this should be given significant weight. Of the other material planning considerations, it is considered that moderate weight should be given to the impact of the development on biodiversity and drainage, as well as on local landscape and trees. Other material considerations are considered to either weigh slightly in favour or have neutral weight.

6.2 Overall, the objections to the proposal are not considered sufficient to outweigh the significant weight given to the presumption in favour of sustainable housing development and the recommendation is to grant planning permission with conditions.

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

**Vale of White Horse Local Plan 2031 Part 1:**

- CP03 - Settlement Hierarchy
- CP04 - Meeting Our Housing Needs
- CP23 - Housing Density
- CP35 - Promoting Public Transport, Cycling and Walking
- CP37 - Design and Local Distinctiveness
- CP42 - Flood Risk
- CP44 - Landscape
- CP46 - Conservation and Improvement of Biodiversity

A Regulation 10A review (five-year review) for Local Plan Part 1 (LPP1) has been completed. The review shows that five years on, LPP1 (together with LPP2) continues to provide a suitable framework for development in the Vale of White Horse that is in overall conformity with government policy.

### **Vale of White Horse Local Plan 2031 Part 2:**

- DP16 - Access
- DP23 - Impact of Development on Amenity

### **North Hinksey Neighbourhood Plan, 2031:**

- HS1 – Characteristics of New Housing
- HS2 – Low-rise Housing Design
- HS4 – Flexibility, Future Proofing and Sustainable Design
- TR2 – Parking, Access and Electric Vehicle Charging
- GS2 – Biodiversity, Wildlife Corridors, TPO's and Tree Canopy Cover
- GS3 – Locally Important Views

### **Vale of White Horse Design Guide, 2015**

### **National Planning Policy Framework, 2021**

### **Planning Practise Guidance**

### **Equalities Act 2010**

Officers have paid due regard to the duties under Section 149 of the Equalities Act. It is considered that no recognised group will suffer discrimination as a result of the development.

### **Human Rights Act 1998**

The application has been assessed against the European Convention on Human Rights, particularly Article 1 and Article 8. The individual objections have been balanced against the public interest and the recommendation is considered to be proportionate.

**Author:** Martin Deans  
**Contact No:** 01235 422600  
**Email:** [planning@whitehorsedc.gov.uk](mailto:planning@whitehorsedc.gov.uk)