APPENDIX 2

East Area Planning Committee 3rd February 2016

Application Number: 13/01555/CT3

Decision Due by: 23rd September 2013

Proposal: Erection of 10 x 3-bed dwellings (use class C3) together with associated car parking, cycle and bin storage. Diversion of public footpath. (Amended plans and description)

Site Address: Land East Of Warren Crescent (**site plan: appendix 1**)

Ward: Churchill Ward

Agent: Turley Associates **Applicant:** Oxford City Council

Introduction

Members of the East Area Planning Committee will recall that this application was brought to their meeting on the 4th September 2013, but was deferred to allow officers to seek further information on the following points

- Further details of the tractor access to the allotments with a clear response from the Council's Leisure and Parks department on delivery options

- Further information on the long term viability of the proposed drainage scheme and protection of the SSSI, specifically in relation to the possibility of any long term damage to the fen, underlying ground water and aquifers from the proposed development. The Committee also requested evidence of where such schemes have worked at sensitive locations

- The issue of future council tenants seeking to exercise Right to Buy of their dwellings and how leaseholds would be considered, in order to ensure long-term responsibility and protection of the SSSI and the on-going maintenance costs of the SUDS scheme.

This is a supplementary report which considers the additional information that has been submitted in response to these points of deferral. It should be read in conjunction with the original committee report in **appendix 2**

Recommendation

The East Area Planning Committee is recommended to approve planning permission for the following reasons:

Reasons for Approval

1 The proposal would make an efficient use of this site which has been allocated for residential use as part of the Councils five-year housing supply to provide good quality affordable housing while at the same time establishing a balanced and mixed community within the Headington neighbourhood area. The proposal has considered the potential risk to the Lye Valley SSSI and Lye Valley Nature Reserve from changes to surface and groundwater flow to these sensitive sites, and developed a sustainable urban drainage system which if implemented in accordance with the details submitted in the application would minimise the risk of adverse impacts on the SSSI or Local Nature Reserve. The overall layout, form, and appearance of the development would be appropriate for the site and surrounding area while also safeguarding the amenities of the adjoining residential properties. The proposal is acceptable in highway terms with appropriate access arrangements retained for the Town Furze Allotments, parking provision, and pedestrian linkages to the surrounding area. The development would be energy efficient, and would not have a significant impact upon biodiversity; trees; archaeology; flood risk; air quality; land contamination; or noise impact and any such impact relating to these matters could be successfully mitigated by appropriate measures secured by condition or contributions. The proposal would accord with the overall aims of the National Planning Policy Framework and relevant policies of the Oxford Core Strategy 2026, Oxford Local Plan 2001-2016, and Sites and Housing Plan 2011-2026.

2 In considering the application, officers have had specific regard to the comments of third parties and statutory bodies in relation to the application. However officers consider that these comments have not raised any material considerations that would warrant refusal of the applications, and any harm identified could be successfully mitigated by appropriately worded conditions.

3 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

Conditions

1 Development begun within time limit
2 Develop in accordance with approved plans
3 Samples
4 Details of all means of enclosure for the site including the erection of palisade fencing along the boundary with the SSSI to prevent fly tipping
5 Details of refuse and cycle storage
6 Landscape plan required
7 Landscape carried out by completion
8 No felling lopping cutting

9 Tree Protection Plan (TPP) 1
10 Arboricultural Method Statement (AMS) 1
11 Sustainable Urban Drainage Scheme including detailed design, construction and maintenance plan
12 Biodiversity enhancements
13 Method statement for preserving ecology
14 Arch - Implementation of programme
15 Details of the proposed parking areas
16 Details of the allotment access
17 Amendments to the Traffic Regulation Ord
18 Construction Environmental Management Plan including a method statement for preserving ecology during construction
19 A Travel Plan Statement
20 Details of affordable housing
22 Secure by Design Principles
23 Sustainability Measures / NRIA
24 Removal of permitted development rights
25 Scheme of external lighting
26 Phase II Contaminated Land Assessment

Principal Planning Policies:

Oxford Local Plan 2001-2016
CP1 - Development Proposals
CP6 - Efficient Use of Land & Density
CP8 - Design Development to Relate to its Context
CP9 - Creating Successful New Places
CP10 - Siting Development to Meet Functional Needs
CP11 - Landscape Design
CP13 - Accessibility
CP19 - Nuisance
CP20 - Lighting
CP21 - Noise
CP23 - Air Quality Management Areas
NE13 - Water Quality
NE20 - Wildlife Corridors
HE2 - Archaeology

Core Strategy
CS2_ - Previously developed and greenfield land
CS9_ - Energy and natural resources
CS11_ - Flooding
CS12_ - Biodiversity
CS13_ - Supporting access to new development
CS14_ - Supporting city-wide movement
CS17_ - Infrastructure and developer contributions
CS18_ - Urban design, town character, historic environment
CS19_ - Community safety
CS22_ - Level of housing growth
CS23_ - Mix of housing

CS24_ - Affordable housing

Sites and Housing Plan
HP1_ - Change of use from existing homes
HP9_ - Design, Character and Context
HP11_ - Low Carbon Homes
HP12_ - Indoor Space
HP13_ - Outdoor Space
HP14_ - Privacy and Daylight
HP15_ - Residential cycle parking
HP16_ - Residential car parking
SP60_ - Warren Crescent

Other Planning Documents
- National Planning Policy Framework
- Balance of Dwellings Supplementary Planning Document
- Affordable Housing and Planning Obligations Supplementary Planning Document
- Parking Standards Supplementary Planning Document

Public Consultation
A summary of all the comments received from statutory consultees and third parties in relation to the original submission can be found in the committee report in **Appendix 2**.

The following comments have been received in response to the public consultation undertaken following receipt of the additional information submitted to address the points raised by the East Area Planning Committee. These are summarised below.

Statutory Consultees

- Oxfordshire County Council

  Highways Authority No objection to the development subject to the provision of a construction traffic management plan, and an amendment to the Traffic Regulation Order to remove the properties eligibility to residents parking permits.

  The diversion of the footpath will require a separate consultation and agreement and must be in place to Oxfordshire County Council specifications and diverted before implementation

  Drainage Authority: Following a review of the further information provided by the applicant, the county council is satisfied that the detail regarding drainage and Sustainable Urban Drainage issues affecting the SSSI previously highlighted by the County Council have been addressed.

- Thames Water Utilities Limited
  No objection subject to a condition requiring details of a drainage strategy for any on and or/off site drainage works relating to waste water infrastructure.

- Natural England

Natural England would confirm the comments in their original response to this application on the 2nd August 2013. There would be no objections subject to the following:

- There should not be a significant impact on the hydrology of Lye Valley SSSI, provided that the design and construction methodologies proposed in the application are implemented.

- There will be a need for the Sustainable Urban Drainage Scheme to be maintained in perpetuity, and restrictive covenants need to be put in place to ensure that the block paving and grass gardens are maintained as they have been designed and the dwellings cannot be altered should the housing be sold in the future.

Third Parties

- Friends of Lye Valley
  The Friends of Lye Valley have submitted a detailed letter of objection which includes a number of appendices and a response by Dr Judith Webb. A copy of this letter is included in full **appendix 3** of this report for ease of reference.

- Oxford Civic Society
  We are deeply concerned about the risk of harm to the adjacent SSSI. The particular ecological characteristics of this SSSI make it very rare if not unique in the UK. This uniqueness stems from the very particular balance of hydrological factors: moisture content, distribution, water table position, stream & spring flow volumes and profiles, and, particularly, water chemistry.

  The sensitivity of the SSSI is clearly recognised by all concerned; the disagreement lies in whether or not the slightest risk to the SSI can be eliminated. The risk is especially associated with the effect of the proposed development on patterns of surface water run-off and dispersal.

  Although the application includes volumes of reports and information, the essential fact is that the surface water flows from this development will disperse in a different pattern from now – different intensities, different locations, probably different chemistry. The Peter Brett Associates (PBA) engineering report on the proposed SUDS does not address all these issues; SUDS are usually merely required to mitigate peak water flows to reduce risk of flooding. The requirement here is very much more complex, and PBA do not address this complexity at all. The drainage systems have been, or will be designed to meet specified criteria for flood mitigation, but not for the maintenance of the precise and critical hydrological and chemistry conditions listed above. There is not even a proposal that any of these be monitored during or after construction, or over time, and there is no suggestion of any possible remedies in the event that the effects on the hydrology prove significant. This is a one-way street with no possibility of a 'U' turn.

  In any event, the biggest risk factor with SUDS is maintenance and performance over time. The whole system is dependent upon controlled percolation through permeable strata (starting with the surface paving). PBA's table of maintenance

(Appendix A of their report) cites the CIRIA SUDS Manual C697, and makes proposals for the maintenance regime reckoned to be necessary to maintain the performance of the system. However, there are two major flaws in the suggested regime.

The first flaw is that there is no proposal for any guaranteed, permanent organisational strategy to ensure that the regime is implemented in perpetuity. There seems to be a suggestion that perhaps Oxfordshire County Council will take responsibility, as if this might give reassurance. In circumstances where Oxon CC is steadily cutting back on provision of many important services, it is totally implausible that the detailed and systematic procedures specified will actually be carried out.

The second flaw is that the specified regime comprises only routine vacuum brushing of the surface, reinstatement of sand between paviours where the vacuuming has removed it, and inspection and rectification of silted up catchpits and pipework, or damaged areas of paving. There is no monitoring of performance even in terms of designed discharge rates, let alone on the effect on the local hydrology, and still less on the water chemistry, above and below ground.

The documents fail to adequately demonstrate that there will be **no** risk to the ecology of the SSSI; not only is this a condition of the allocation of this site in the Sites & Housing Allocations DPD, it requires careful consideration of the importance of this particular ecology and this particular site, set against the contribution of 10 houses to the city's critical requirement for affordable homes.

The housing crisis is not going to be solved by tiny incremental developments on sites of extreme sensitivity such as this – it is going to take radical solutions. It is therefore unacceptable to embark upon a path which cannot be guaranteed not to lead to irrevocable consequences, of importance not just in Oxford, but even in a global context. Community organisations have clearly worked hard over many years to preserve, protect or improve the unique environment; knowingly putting this at any risk would constitute deliberate vandalism.

- <u>Headington Neighbourhood Plan Green Spaces Working Group</u>
  The working group express their concern at the proposal to build on green space at Warren Crescent. The group would draw your attention to the draft green spaces policies of the Headington Neighbourhood Plan which, we suggest, should be taken into account before a decision is made. We realise that these policies are in draft only but evidence from recent legal cases in other places suggests that neighbourhood plan policies even at the draft stage should be taken into account when planning decisions are taken. The following draft policies of the Headington Neighbourhood Plan are relevant in this case:

  (a) Draft Policy GSP1: Conserving and Enhancing Public Access Green Space states that:
  (1) "All existing publicly accessible green space in the Headington Neighbourhood Plan area will be conserved and enhanced" and (3) "Development will not be permitted where it results in the loss of publicly accessible green space unless it can be demonstrated that development on that space is unavoidable and: i. a

publicly accessible green space(s) of an equivalent size and amenity in an identified area(s) of need in the HNPA is provided; and or ii. access to new publicly accessible green space(s) of an equivalent size and amenity in the HNPA is provided; and or iii. access to the public of existing private green space(s) of an equivalent size and amenity in the HNPA is provided.

The land at Warren Crescent is publicly accessible green space in the Headington Neighbourhood Plan area and as such should be conserved and enhanced. It is much used by the local community for informal recreation. There is no other site for informal recreation in the vicinity. The proposed development is, therefore, in conflict with draft Neighbourhood Plan Policy GSP1. It does not accord with the Oxford City Core Strategy which aims to improve the quality of the public realm for both visitors and residents or with the Core Strategy Policy CS21 which seeks to maintain the existing level of green space provision within any area of Oxford City.

(b) Draft Policy GSP3 Conserving and Enhancing Biodiversity (2) states that:
"Proposals which may result in harm, either directly or indirectly to local wildlife or ecology of a significant value2 both within and beyond the proposed development will not be permitted, save in exceptional circumstances, and only then where the benefits of the development clearly outweighs the loss, and this can be mitigated against and compensated for elsewhere within the Headington Neighbourhood Plan area by providing a replacement habitat on a like for like basis."
Our concern is that the application may result in harm to the adjacent Lye Valley SSI which is a site of significant value and of great value to the local community and to the wider Headington and Oxford communities. The circumstances of the proposed development are not exceptional. It is, therefore, in conflict with draft Neighbourhood Plan Policy GSP3 and with the Core Strategy Policy CS12 which is focussed on the protection of designated sites. It is also in conflict with the City Council's Green Strategy Objective 21 which seeks "the "protection of important and prosaic species in all sites." The more prosaic species may have particular value if they are rare in this area. In addition it does not conform to the NPPF Guidance (109) which seeks to minimise the impacts of development on biodiversity and provide net gains in biodiversity where possible.

(c) Draft Policy AMP1 Protecting and Enhancing Sports, Leisure and Community Facilities states that:
"*in order to increase accessibility to a wide range of sports and leisure facilities and to make Headington a more sustainable place in which to live and work: (1) Existing sports, leisure and community facilities will be protected and opportunities for enhancement will be sought. Planning permission will not be granted for development that results in the loss of such facilities unless equivalent new or improved facilities can be provided within the Headington Neighbourhood Plan area as near to the existing facilities as possible".*

The proposed development would result in the loss of a valuable informal sports facility and as such is in conflict with draft Neighbourhood Plan Policy AMP1. It does not accord with Core Strategy Policy CS20 Cultural and Community Development which states that "The City Council will seek to protect and enhance existing cultural and community facilities. Planning permission will not be granted for development that results in the loss of such facilities unless equivalent new or

improved facilities, where foreseeable need justifies this, can be provided at a location equally or more accessible by walking, cycling and public transport." It does not accord with Core Strategy Policy CS21 which states that "planning permission will only be granted for development resulting in the loss of existing sports and leisure facilities if alternative facilities can be provided and if no deficiency is created in the area."

In summary the proposed development is in conflict with both the developing Headington Neighbourhood Plan policies and with the Core Strategy and Green Strategy policies and, in our view, should not proceed.

- Oxford Urban Wildlife Group
  The Oxford Urban Wildlife Group, endorse all the points made by the Friends of the Lye Valley. The change in composition of the water feeding into this rare habitat here is bound to change as a result of the proposed new housing and the rare plants and animals found in this calcareous fen will disappear. The one remaining green play area for children - the kickabout area - will disappear and the gardens will be paved thus changing the water runoff to the fen and threatening the rare wildlife there. The affordable housing will increase the number of children living in the area and without the play area they are likely to go into the valley and disturb the drainage area and its wildlife. Please reject these plans and, although housing is needed, can it be built in a less fragile area.

- The British Entomological and Natural History Society
  The society objects and supports the local conservation group in saving this important site for invertebrates from further development and damage

- Campaign for the Protection of Rural England (CPRE)
  CPRE Oxford is very concerned about the impact of the proposed development for 10 homes at Warren Meadow on the adjacent Lye Valley SSSI. We support the submission by Dr Judith Webb and urge you to recommend refusal for this development as we do not believe that its hydrological impacts on this unique fen habitat can be sufficiently mitigated as proposed.

  If the council is minded to recommend approval we urge you to implement the conditions as proposed by BBOWT, Natural England and Thames Water

- Plantlife
  Plantlife object to this planning application as we consider it will likely have significant hydrological impacts that contravene with Policies NE 12 and 13 of the Oxford Local Plan 2001-2016.

  There is no evidence that the supporting SuDS mitigation measures will ensure effective and long term protection of the groundwater flow and water quality at this site. The site adjoins the Lye Valley SSSI that has been designated for calcareous fen and the rare M13 fen vegetation that it supports. The development will have likely significant impact on the special interests and adversely affect the integrity of the Lye Valley SSSI due to changing the hydrology of the site. Fen habitats are dependent on maintaining the hydrological conditions of the catchment.

All SuDS need management in perpetuity since their effectiveness declines over time as the pore spaces block up. Fens and their rare vegetation communities, such as M13, are critically reliant on good spring flow of very high quality, low nutrient, highly alkaline waters. The development has a proposed mitigation SuDS infiltration swale with limestone base. However, this has never been used before to protect fen springs. Concentrating the rainwater that would have gone in all over the green area and passing it all into one area, a lot nearer the SSSI will change the hydrology. This will likely make the flow 'flashier', the runoff will likely contain more pollutants overtime and the chemistry of rainwater will lose the lime rich constant flow needed to keep the fen 'tufa' forming . Therefore, the Lye Valley SSSI fens are likely to be threatened by this development even with the proposed mitigation measures in place. Particularly as this SuDS design is an unproven experiment. The hydrology of a catchment is complex and SuDS in practice do not always work in the beneficial way intended. Given the rarity of the priority fen habitat and its important vegetation, you cannot afford to install unproven mitigation designs.

Lowland Fen is recognised as being of 'principal importance' for the conservation of biological diversity in England under section 41 of the Natural Environment and Rural Communities Act 2006. Referred to as priority habitat, fens are therefore a focus for conservation action in England. Under the Biodiversity 2020 Plan, 90% of priority habitats in favourable or recovering condition and at least 50% of SSSIs in favourable condition, while maintaining at least 95% in favourable or recovering condition by 2020. Therefore, putting the Lye Valley into unfavourable condition undermines the Government's ambitions and obligations set out within Biodiversity 2020.

For the reasons mentioned above the flora downslope would also be affected by a change in volume and chemistry of the spring flow. 22 plants on the county Rare Plants Register are known in on this alkaline fen site. For example, there are large populations of Oxon RPR species Marsh lousewort *Pedicularis palustris* (only known from 3 other county sites) lesser amounts of marsh helleborine, *Epipactis palustris*, distant sedge *Carex distans*, long stalked yellow sedge *C. lepidocarpa*, marsh willow herb *Epilobium palustre*, marsh valerian *Valeriana dioica*, bog pimpernel *Anagallis tenella*, bristle club rush *Isolepis setacea*, blunt flowered rush *Juncus subnodulosus* as well as Parsley Water dropwort *Oenanthe lachenalii,* all downslope from this proposed Warren crescent development. Fourteen of the plants in the Lye Valley fens have now a national status as either Near Threatened or Vulnerable within the Red Data list for Vascular plants in England.

- Oxfordshire Geology Trust
  I wish to register objection to the above application as Chair of Oxfordshire Geology Trust, and request that this objection is added to the Councils website and circulated to councillors involved in the decision making process.

  The geology of the Lye Valley, including the SSSI fen, is remarkable and of such rarity that the Oxfordshire Geology Trust are currently conducting an assessment

of it with a view to designating the site as a Local Geological Site (LGS) for inclusion on the list for reporting under NI197 to Natural England.

The Lye Valley's tufa-forming springs produce an outflow which is the product of many years' rainwater absorption and infiltration through the Jurassic limestone which underlies the surrounding area, including Site 60, the location of the proposed development. The springs which emerge as the chemically changed rainwater eventually hits the layer of Oxford Clay, are supersaturated with lime (calcium carbonate) and form tufa, a calcareous deposit, in effect, new rock. Tufa formation requires that the waters must emerge supersaturated with lime or tufa does not form. The formation of this new rock depends entirely on the chemistry of the emergent spring water.

The Lye Valley lies directly below the proposed development. It is certain that the tufa-forming springs would be impacted to an unpredictable degree by the changed subterranean infiltration system, resulting in the diversion of vital rainwater within the modified catchment area, and the 'mitigating' SUDS. The documentation accompanying the application provides no proof that the chemical composition of the springs flowing into the Lye Valley would be unchanged. Yet any change would be deleterious to the extraordinary geology of this valley. The proposed development and SUDS amount to an experiment on this geologically important site.

The Lye Valley's tufa-forming springs and new rock formation represent an exceptional teaching resource for students of both Universities who might wish to study this rare environment and its supporting ecology. It is an important part of Oxford's rich geo-heritage which must be preserved for future generations to both study and enjoy.

- <u>Bioscan (UK) Ltd</u>
  I wish to object to the above planning application for the reasons given below.

  I have reviewed the proposed SuDS system and agree with other commentators that it is of a simplistic design that does not provide sufficient protection to the hydrological regime supporting the critical interest features of the Lye Valley SSSI. In my professional experience, where SuDS techniques are adopted as an avoidance or mitigation measure close to sites sensitive to hydrological change, the underlying design principle is that the existing hydrological regime should be replicated as closely as possible. In this instance the SuDS proposals do not do this, nor even do they purport to do so. The rationale can be put no higher than that what is proposed aims to try and ensure that rainwater input falling on the application site is directed to the SSSI. This is a highly simplistic approach, and expecting it to secure protection of the fragile SSSI interest features in question is almost certainly a false hope. Given the importance of this SSSI, even within the context of the national SSSI series (due to the innate rarity of the habitat here), it has to be a matter of high concern that there has been scant consideration of by what route and how quickly infiltration and groundwater flow reaches the various springs within the SSSI, and the chemical properties imbued as part of that process. This approach to SuDS design as a means of prevention or mitigation is best likened to trying to predict the ending of a book merely by looking at the

cover. There is consequently insufficient assurance before the Council, or indeed Natural England, that the existing regime will continue to function without significant, and likely detrimental, change.

In terms of consequences, the likely problems with changes to the volume, flashiness, and chemistry of flows emerging from the tufa springs within the SSSI, and the likely knock-on consequences to the rare alkaline fen habitats maintained by those flows, are indicated in the forensic analysis provided by Dr Webb. I agree with Dr Webb's analysis and furthermore I note there is no evidence-based challenge to the conclusions she draws. This, and my own experiences of impacts on habitats fed by delicate hydrological regimes in restricted catchments, underlines the high level of risk of irreparable damage occurring to a nationally important site. On any analysis of the planning balance, this high degree of uncertainty over the level and magnitude of damaging impacts to a site of national importance to nature conservation cannot be held to be overridden by a development so demonstrably of local importance only. The application should be refused on that basis alone, in accordance with the NPPF, without the necessity of recourse to local policies which I observe militate against the grant of permission in any event. If it is granted, the grounds on which a legal challenge might be successful are clear merely by reference to national policy and legislation regarding SSSIs.

- Buglife: The invertebrate Conservation Trust
  Buglife objects to this planning application on the grounds that the proposed surface water drainage management will adversely affect the adjacent wetland Site of Special Scientific Interest.

  Lye Valley SSSI contains springs and seepages supporting M13 Alkaline Springs, of which only 19.1 hectares is left in England. The site also has a significant representation of sub-type M13b fen. Such habitat is of high invertebrate importance. Lye Valley is one of only two places in England supporting populations of the charismatic Clubbed General Soldier Fly *Stratiomys chamaeleon.* The presence of such a species is indicative of special ecological conditions able to support assemblages of other invertebrates of national importance. The area of fen adjacent to the application site is a Local Wildlife Site, and may be a contributor to maintaining viable populations of species such as the Clubbed General Soldier Fly which has been observed ovipositing eggs and nectaring here.

  The proposed development, including the swale, will prevent the natural percolation of rainfall into the soil and underlying pervious geology, especially where buildings are proposed. Whilst the swale is offered as mitigation to support the hydrological within the SSSI, there are flaws which carry inherent risks to the natural ecology. The seepage fed fen adjacent to the application site will be under enhanced disadvantage by the proposed development (since buildings will act as an umbrella over part of the hydrological catchment and the position of the swale will result in a net loss to the water table here).

  The hydrology supports a rare type of Alkaline Fen and tufaceous springs within Lye Valley SSSI. These habitats, together with related habitat outside of the SSSI

boundary support important invertebrate populations. The consequences of altering existing conditions impose an added risk to the wetland features and their associated invertebrate fauna.

The proposed swale will divert water to a point where existing spring flow is ecologically satisfactory in supporting tufa habitats suitable for these invertebrates. The characteristics of springs and their associated habitats are constant flow and uniform low temperature throughout the year, with any changes being very gradual. The springs are naturally fed by water which has percolated into the ground rather than flowing overground as surface water. The input of surface water channelled from the development, through the swale, and in to the springs and related fen will alter ecological conditions. Erratic spate flow from the swale will cause sudden temperature shocks, and with water of different chemistry, perhaps even carry pollutants in the absence of filtration. Whilst a bed of crushed limestone under the swale may assist water to be calcareous, chemical reactions are slow when water temperatures are low. Surface water takes considerable time to soak down into the aquifer and then travel though rocks to the spring point or seepage line. The route from the bottom of the swale, through crushed limestone to spring point would appear to be too short.

We would suggest that the outflow of the swale, if retained, should discharge in to the valley bottom stream. The exact route requires detailed consideration and should be guided by detailed habitat and invertebrate surveys to ensure that important features are not adversely affected by the works.

It is welcome that the application includes mitigation, even if flawed, but the consequences of the development overall are weighted towards a disadvantage for the ecology of this part of the valley fens. Paragraph 109 of the NPPF states that "*the planning system should contribute to and enhance the natural and local environment by…minimising impacts on biodiversity and providing net gains in biodiversity where possible*". Paragraph 118 of the NPPF states that when considering conserving and enhancing biodiversity, that if "*significant harm resulting from a development cannot be avoided, mitigated, or, as a last resort, compensated for, then planning permission should be refused*". At present this application does not meet the requirements of the NPPF as the proposed development places the ecology of the adjacent SSSI and associated habitats at risk since the outcome cannot be accurately predicted, and the outcome cannot be reversed. The only safe option is to maintain the present hydrological position, meaning no further building in the application area.

Individual properties

Letters of comment have been received from the following addresses and their comments are summarised below

2 Calcot Close; 128 Divinity Road; 47 Fairacres Road; 9 Flexney Place; 34 Flatford Place, Kidlington; 5a Girdlestone Road; 22 Henley Street; 73 Leafield Road; 4 Lye Valley; 132 Morrell Avenue; 41 Netherwoods Road; 73 Old Road; 51 Ramsay Road; 56 Raymund Road; 51 Stapleton Road; 30, 50 St Annes Road; 14, 16 Warren Crescent; No address given (Mr and Mrs Wilcox, Mr Woolliams, Mr Finch, Dr Newsome, Mr Pickering, Ms Z Whannel)

The main points raised were:

- This is already an extremely built up area and the development will have a negative effect on the feel of the area and parking provision
- The proposal will remove one of the only open spaces in the area which is used by children to play and should be maintained as an area of public amenity
- Local people now call this space Warren Meadow
- The proposal will have an adverse impact on the Lye Valley SSSI and much loved nature reserve and is a direct threat to its survival
- The open space is home to a large and diverse wildlife
- The site currently functions as a rainwater catchment for the fen and this will be compromised by the development
- The hydrology of the fen has already been affected by surrounding housing and roads
- The proposed mitigation measures for the SSSI will not be sustainable long-term and risks the loss of rare habitat in the area if they fail
- The Council has contributed so much to the Lye Valley fens recovery that they should not put this threat in the way of this work
- The construction works will disrupt the local community
- The proposal will set a precedent for development in the area which will destroy its character
- The right to buy will apply, probably resulting in an overseas purchaser and student lets and the SUDs maintenance programme and costs unlikely to be met
- Covenants on the properties cannot be policed, now or in perpetuity.
- Support the comments of the Friends of Lye Valley Committee
- The inspectors conditions and BBOWTs conditions have not been met
- Although there is need for additional housing in Oxford, the proposed dwellings could be built elsewhere and on brownfield land
- There is no evidence that the development outweighs the harm identified in Oxford Core Strategy Policy CS12

Friends of Lye Valley Petition

A written and online petition has been submitted with the following wording

'We the undersigned petition the Council to designate the land east of Warren Crescent (originally Site 60 but suggest the new name 'Warren Meadow') as Local Green Space (LGS) which would protect it for the local community by whom it is held in great affection for informal recreational use by adults and children alike. We value highly its tranquillity and setting for the adjacent Lye Valley for whose rare SSSI Ice Age tufa-forming valley-head spring fen it provides the crucial rainwater catchment and infiltration. We hold that the SUDS for the proposed development are inappropriate and have not been proved to function in perpetuity - if at all - as is required by the Planning Inspector'

As of the 19th January 2016 a total of 701 signatures had been received.

Officers Assessment:

Background to Proposals

1. The site is located on the eastern side of Warren Crescent and is bordered by residential accommodation to the north, north-east, and south-west. To the south east lies a band of mature trees which adjoins the Lye Valley Site of Specific Scientific Interest [SSSI] and Lye Valley Nature Reserve (**appendix 1**).

2. The site comprises a tended grassed area of informal open space which fronts onto Warren Crescent. There is a small open car park at the northern end along with an access to the Town Furze allotments. The Town Furze allotments are to the north-east, and there is a footpath (no.80) which runs from the southern side of the allotment to the north-western corner of the site

3. The Lye Valley Sites of Specific Scientific Interest [SSSI] and Lye Valley Nature Reserve adjoin the site, but are situated at a lower level to the site. A small part of the north of the site forms part of the Lye Valley Local Nature Reserve and the non-statutory designated site, Lye Valley Scrub Site of Local Importance for Nature Conservation (SLINC).

4. The proposed development would provide 10x3 bedroom two-storey terraced and semi-detached affordable homes which would be owned and operated by Oxford City Council. The dwellings would have their own private gardens and refuse area to the rear which is accessible by a side gate and an off-street parking space per dwelling and two-cycle stores. The dwellings are designed to comply with Code for Sustainable Homes Level 4, Secured by Design, Lifetime Homes and the Housing Quality Indicators.

5. The proposed development sought to retain access to the Town Furze Allotments and these access arrangements have been amended following further discussions with the allotment association in response to the one of the committee's reasons for deferral. The proposal also includes the diversion of footpath (no.80).

6. The principal determining issues for this scheme are identical to the ones originally presented to the East Area Planning Committee in September 2013. There has been no material change in national or local planning policy and site circumstances since this time that would alter the conclusions set out in the original committee report (**appendix 2**).

7. The purpose of this report is to consider the further information submitted to address the points raised by the committee and any other matters that have arisen through the most recent public consultation.

Allotment Access

8. The site allocation policy (SP60) recognised that the existing vehicular access and turning area is essential for the users of the adjoining Town Furze allotments

and would need to be retained to an adequate standard as part of any scheme. It went on to suggest that a width of 6m and a turning area may be required.

9. The initial layout sought to provide a 3m wide access road from Warren Crescent with a turning area that allowed a 90º turn at the end. The access was to be gated to enable pedestrian access. During the determination of the application the allotment association suggested that the access would not allow a large tractor to enter the site for deliveries. The committee therefore requested that the access arrangements were considered further to ensure that there was sufficient space for deliveries.

10. Since that time, the applicant has engaged with the allotment association to understand their requirements. As a result the allotment access has been revised to create a 4.2m wide gated vehicular access with turning area to the rear. The access would be formed from a geotextile reinforced grass and would maintain pedestrian access. The revised access arrangements were physically tested on site on the 17th November 2014. The access was pegged out and two tractor and trailer combinations were tested with the Council and Allotment Association providing their own independent drivers and vehicles who were both able to manoeuvre into the access and turning space successfully.

11. The revised access arrangements has resulted in a reduction of garden lengths for plots 1 and 2 respectively, however, the remaining garden size for these properties would still be acceptable for the type of house proposed under the requirements of Sites and Housing Plan Policy HP13.

12. Therefore officers would recommend that the revised access arrangements would maintain appropriate access arrangements for the allotment under the terms of the allocation policy SP60.

Impact upon the Lye Valley SSSI – Flood Risk & Sustainable Urban Drainage

13. The site is located adjacent to the Lye Valley SSSI which is recognised for its rare valley calcareous fen habitats that are dependent on special local hydrological conditions. The site lies within the hydrological catchment area of Lye Valley. In terms of surface area, the site is a small proportion of the wider catchment area which stretches across the residential suburb of New Headington. Nonetheless, the site allocation policy (SP60) makes clear that permission will only be granted for development if it can be proven there would be no adverse impact on the surface and groundwater flows and the SSSI from increase in hard surfacing. The policy also makes clear that any development proposals must incorporate sustainable drainage measures with an acceptable management plan in order to address this issue.

14. In accordance with these policy requirements, a number of assessments were undertaken to understand the potential impact of the proposed hydrology of the Lye Valley SSSI. The assessments were then used to develop a robust drainage strategy for the development which included a sustainable urban drainage system in order to manage the risks to the SSSI.

15. The East Area Planning Committee requested the following additional information with respect to the drainage strategy for the site.

- Further information on the long term viability of the proposed drainage scheme and protection of the SSSI, specifically in relation to the possibility of any long term damage to the fen, underlying ground water and aquifers from the proposed development. The Committee also requested evidence of where such schemes have worked at sensitive locations

- The issue of future council tenants seeking to exercise Right to Buy of their dwellings and how leaseholds would be considered, in order to ensure long-term responsibility and protection of the SSSI and the on-going maintenance costs of the SUDS scheme.

Long term viability of the Drainage Scheme

16. At the outset officers would make the committee aware that Sustainable Urban Drainage Systems are a recognised method for managing surface water and water quality and guided by national standards. The National Planning Policy Guidance states that these systems are used to control surface water run off close to where it falls and mimic natural drainage as closely as possible, whilst providing opportunities to remove pollutants from urban run off at source. These benefits are recognised within the site allocation policy which states that any residential development must incorporate sustainable urban drainage into the scheme.

17. The land at Warren Crescent is sited within the surface and groundwater catchment areas for the Lye Valley SSSI which themselves cover a wide area across the residential suburbs of New Headington. The site is an area of tended open land which currently drains through infiltration to groundwater and through the SSSI to the Lye Brook. The site also has a small surface level car park. The unsecured nature of the site makes it already open to potential misuse (i.e. fly tipping) and risk of contamination from hydrocarbons and other materials being dumped on the site. The SSSI is sensitive to changes in the surface and groundwater flows, and hydrological studies suggest that the construction of houses and gardens across the wider catchment have increased water run-off and led to erosion of the stream channel, also altering conditions locally within the fen areas. However there are also other factors within the SSSI affecting the fen, such as, the growth of reed, scrub and tall vegetation due to years of neglect. The site is now in active management, and the condition of the SSSI is officially assessed as unfavourable, but recovering.

18. With regards to the long term viability and protection of the SSSI, the proposed drainage scheme has been specifically designed for this purpose. It was developed in conjunction with Natural England, who is responsible for the protection of the natural environment and designating Sites of Special Scientific Interest. Natural England has raised no objection to the development and are satisfied that the scale and nature of the proposal will not be likely to have an adverse impact upon the features of special interest for which the SSSI is known provided the development is constructed in accordance with the proposed design

and construction methodologies and there is on-going maintenance of the sustainable drainage system. This view is supported by Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT), and also Oxfordshire County Council Drainage Authority.

19. The site layout retains a large amount of undeveloped land in the form of gardens and open space which would retain the current drainage relationship and rate of infiltration to ground water systems. The drainage strategy then seeks to mimic the existing drainage regime for this area of open land and provides a water quality management sequence to limit the risk of adversely affecting the quality of the ground and spring water feeding into the Lye Valley SSSI. The strategy includes the following:

- The access roads, pavements and parking bays will drain via permeable paving, providing the first tier of storage and treatment
- The treated water from the permeable paving will then pass through catchpits and be conveyed to a swale (with underlying limestone base) bounding the edge of Lye Valley. The swale would act as the second tier of water quality treatment.
- Roof drainage, access paths to the bike sheds and patio areas will be directed, via a pipe network, to the swale such that this relatively clean water would receive two levels of water quality treatment.
- The scheme would include a bund between the edge of the Lye Valley and the development site to allow for a design exceedance flows from entering the Lye Valley.
- The water management sequence will delay water entering the swale from the above such that the increase in rate and volume of infiltration to underlying groundwater is not considered high enough to significantly influence the natural base rich chemistry of the groundwater feeding the SSSI.

20. The applicant has provided details of the methodologies used to develop the drainage scheme and the additional assurances during and post construction that will seek to mitigate any impact upon the SSSI.

- A tier 2 contaminated land risk assessment has been carried out to understand what contamination exists on site and the requirements to mitigate and remediate any impacted soil and/or groundwater identified to ensure that this does not discharge through to the SSSI during construction
- At construction stage basic mitigation measures including health and safety for workers and protected water supply pipes will be operated.
- A detailed design strategy developed at the detailed design stage to ensure water is primarily discharged to landscaped areas, reducing the risk of flooding in the built areas during extreme events.
- To mitigate any potential adverse impacts of surface water run off through the use of a sustainable drainage system and run off collected through permeable paving and discharged to groundwater via a swale in the south east corner of the site.
- The flashiness of the springs on the west side of the fen would not be materially affected by the proposed infiltration drainage since the residency time within the ground will be similar due to the design of the SUDS system

mimicking the existing greenfield run off. The quantum of groundwater flow from the catchment would also not be adversely impacted.

- The proposed system does present an opportunity to slightly increase the overall quantity of groundwater along the southern part of the western boundary nearest to the area of SSSI where restoration through reed cutting is occurring. This is because slightly less of the incident rainfall on the equivalent area of the proposed roof and hard surfacing will be lost to atmosphere through evapotranspiration. This additional water will be diverted to the swale for infiltration. Further, lining the swale with limestone will help to beneficially modify the infiltrating surface water in line with passage through the natural calcareous geological strata which currently does not occur to the incident rainfall that currently percolates through made ground materials.
- The proposed storage facilities will be designed to accommodate the 1 in 100 probability storm event and include a 30% allowance for climate change. In addition, the size of the bund around the swale will be increased so there is no foreseeable risk of overland spillage.
- The swale will not be available for public access and will be enclosed by boundary treatments. The materials for use in the swale will also be selected to ensure that the appropriate ph value of infiltrating water is maintained or improved
- The parking areas will be constructed using permeable paving with sub-base storage. This will mean that any oil drips from vehicles and exhausts will become trapped within sub-bas storage and broken down by biological action, which will safeguard the water quality of groundwater.
- An emergency action plan will be developed detailing the actions that will be taken in the event of pollution of the SUDS.
- A SUDS management plan will be implemented and managed in-perpetuity by Oxford City Council housing department to ensure the planned SUDS system is maintained to a fully operational standard.
- The removal of permitted development rights for certain developments and restrictions in tenancy agreements for certain developments.
- The diversion of the public surface and foul water sewers running underneath the site to the front of the properties.

21. The committee also requested evidence of where these types of Sustainable Urban Drainage Schemes have worked in sensitive locations. The applicant has provided a number of examples where such schemes have been used, and these can be found within **appendix 4** of this report.

22. The case studies that have been presented by Peter Brett Associates demonstrate that Sustainable Urban Drainage Systems are being used successfully to manage surface water and water quality at ecologically sensitive locations elsewhere in the UK. It is fair to say that the environmental conditions of the Lye Valley SSSI and Warren Crescent differ from those at the case study sites. However, the varying features of interest of these sites mean they have to have bespoke solutions and this has been recognised in the designed drainage system with the addition of calcareous aggregates both within the formation of the permeable paving and as a basal lining to the swale to modify the groundwater chemistry.

23. Having regards to the above, officers would share the view of Natural England that the implementation of the proposed drainage strategy would be unlikely to have an adverse impact upon the special features of the SSSI subject to conditions securing the works and on-going management and therefore the scheme would accord with the requirements of the site allocation policy SP60.

Long Term Management of SUDS

24. It is recognised that the Sustainable Urban Drainage System will require regular inspection and maintenance to ensure that it functions as designed. A Management Plan (**appendix 5**) has been prepared by Peter Brett Associates to demonstrate the long term maintenance provision to support the proposed drainage strategy.

25. The Management Plan has been prepared in accordance with the industry standard (The SUDS Manual, CIRIA C697) and sets out a comprehensive maintenance and monitoring schedule, which if implemented, gives confidence that the system will continue to operate as designed.

- Regular Maintenance: The brushing and vacuuming of the permeable paving, and inspection of catchpits and pipework twice a year; the inspection of the Swale (including the limestone base and weir), removal of litter and debris twice a year, and monthly grass cutting (during growing season) of the Swale and bund.
- Occasional Maintenance: Removal of weeds from permeable paving, and sediment removal from the catchpits and pipework as required; the removal of unwanted vegetation growth and reseeding of grass in the swale annually
- Remedial Maintenance: the rehabilitation of the permeable paving and geotextile membranes and repair of any damage to catchpits and pipework as required; repair of any erosion or other damage to the swale (including weir and limestone base) as required
- Monitoring: Initial inspections after three months of installation and then at varying times across the different elements.

26. Although no costings of the on-going maintenance have been provided, the plan makes clear that the maintenance will be undertaken by Oxford City Council Leisure and Parks department.

27. The committee also requested details of how 'Right to Buy' legislation and leaseholds would be considered in order to assist with the long term responsibility to maintain the sustainable Urban Drainage Scheme.

28. The planning permission will withdraw permitted development rights to prevent future occupiers from carrying out hard surfacing, extensions to the dwellings and erecting outbuildings on their plots. In addition tenancy agreements for the properties will require tenants to obtain agreement from the Council before installing additional hard landscaping or structures within the gardens. In the event that any properties were sold through 'right to buy' or any other means the removal of permitted development rights would still apply to the property and could be reiterated through covenants.

29. In addition to the above, officers would also recommend that palisade or other permanent fencing should be installed along the northern boundary of the fen (in addition to the proposed hedge laying) to prevent fly tipping from continuing in this area and therefore having a continued impact upon the fen.

Other Matters

30. A further consultation period has been carried out with respect to the additional information that was requested by the committee and the resultant amendments with respect to the allotment access. The comments received have raised issues that have already been considered as part of the original committee report (**appendix 2**) and therefore the following points will deal with matters that raised that were not dealt with in that report.

31. Loss of Open Space: During the consultation process it has been suggested that the loss of this open space would be contrary to the paragraph 74 of the National Planning Policy Framework which states that *'existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss*.'; Oxford Core Strategy Policy CS21 which seeks to maintain 5.75ha of green space per 1,000 population; and also the draft policies of the Headington Neighbourhood Plan which seek to retain open space.

32. In response officers would advise Members that this area of land is not designated as protected public open space within the development plan. Instead the site has been allocated for residential development as part of the Councils five-year housing land supply within the Sites and Housing Plan. The Sites and Housing Plan is an up-to-date development plan document that demonstrates how the aims of the Oxford Core Strategy will be achieved. This was adopted in January 2013 in accordance with the National Planning Policy Framework following a lengthy adoption process which included public consultation and an examination in public. The background papers associated with the development of the Sites and Housing Plan set out what assessments took place in the allocation of the specific sites within the plan. These were accepted by the planning inspector at the examination.

33. Therefore in terms of the general principle of developing this site for residential purposes, officers recognise that it is a greenfield site as defined by the National Planning Policy Framework. However, it is a strategic site that has been specifically allocated for residential development within the Sites and Housing Plan as part of the council's five-year housing land. Oxford Core Strategy Policy CS2 makes clear that the development of greenfield sites will only be allowed where they are specifically allocated for that use within the Local Development Framework, or required to maintain a five-year rolling housing-land supply in accordance with Oxford Core Strategy Policy CS22. Therefore officers consider

that the redevelopment of this area of land would accord with the aims of the National Planning Policy Framework and the Oxford Core Strategy.

34. With regards to Headington Neighbourhood Plan, officers understand that the draft policies seek to retain the existing publically accessible green space within Headington. However, whilst consideration can be given to emerging neighbourhood plans, the weight that needs to be attached to their draft policies depends on their stage in the adoption process. The Headington Neighbourhood Plan is a draft document which has not been subject to an examination in public, or yet submitted to the City Council, and therefore would have little weight when weighed against the current up-to-date adopted policies of the Core Strategy and Sites and Housing Plan. Moreover, the National Planning Policy Framework makes clear that a neighbourhood plan should support the strategic development needs set out within local plan and that includes policies for housing and economic development. This means that a Neighbourhood Plan could not effectively de-allocate an already allocated site as has been suggested in the public consultation. Weight should not be given to an emerging, untested neighbourhood plan policy that diverges from policies of an adopted Local Plan document. Therefore officers would advise members that the draft policies of the Headington Neighbourhood Plan would have no weight in the determination of this application.

35. Community Infrastructure Levy: The planning obligations listed in paragraph 51 of the original committee report (**appendix 2**) have now been superseded by the Councils' Community Infrastructure Levy Charging [CIL] Schedule. The level of development would result in a CIL charge of approximately £100,925.47. However Affordable Housing is one of the forms of development which could apply for an exemption from CIL charges.

Conclusion:

36. The proposal is considered to be acceptable in terms of the aims and objectives of the National Planning Policy Framework, and relevant policies of the Oxford Core Strategy 2026, Sites and Housing Plan 2011-2026, and Oxford Local Plan 2001-2016 and therefore East Area Planning Committee is recommended to approve the application.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998
Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

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Date: 7th December 2015