

Planning Review Committee

30 March 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

The application has been called-in to the Planning Review Committee by Councillors Brandt, Benjamin, Wilkinson, Wade, Thomas, Simmons, Goddard, Gant, Altaf-Khan, Hollick, Wolff, Haines and Fooks on grounds that the approval of the application puts at risk a highly unique Site of Special Scientific Interest (SSSI) reserve.

Recommendation

The Planning Review Committee is recommended to approve the grant of 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 Council's 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 impact relating to these matters could be mitigated by appropriate measures secured by condition. 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 application, and any harm identified could be mitigated by the conditions listed below.
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. 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
21. Secure by Design Principles
22. Sustainability Measures / NRIA
23. Removal of permitted development rights
24. Scheme of external lighting
25. Phase II Contaminated Land Assessment

Background

1. At the East Area Planning Committee on the 3rd February 2016, Members resolved to approve planning permission for the development of 10x3 bedroom affordable homes on this allocated site on land east of Warren Crescent for the reasons set out within the officers report (**appendix 2**)
2. The decision of the East Area Planning committee has subsequently been called-in to the Planning Review Committee by Councillors Brandt, Benjamin, Wilkinson, Wade, Thomas, Simmons, Goddard, Gant, Altaf-Khan, Hollick, Wolff, Haines and Fooks on the ground that the approval of the application puts at risk a highly unique Site of Special Scientific Interest (SSSI) reserve.
3. The stated basis for that view was that the committee did not give sufficient weight to the following material considerations in reaching their decision.
 - The decision disregarded local expertise, ignoring the detailed and well-reasoned opposition of a long list (10) of organisation which are closely familiar with the site in question, taking on board only Natural England's lack of opposition.
 - Approving this application commits the city council to potentially large expenses in perpetuity (no accurate sum, or even a rough estimate, was presented) in order to maintain the SUDs system in perpetuity. It is not clear where these resources will come from (this is a material consideration, as if the resources are not available, there is no dispute that this development will cause great harm to the SSSI)
 - Approval of this application ignored the need for taking a highly cautious approach, as the area being put in potential danger is highly rare, and of national and even international significance.
 - The SUDs system proposed by the developer as a means to mitigate the potential adverse effects on the Lye Valley reserve is unproven, and there is no reasonable assurance that it will work in the context of the complex water system of the area.
 - A 'plan B' to protect the reserve, which BBOWT has said should be provided as a condition for withdrawing their opposition to the application, has not been submitted.
4. This cover report will provide specific comments on the matters listed above and should be read in conjunction with the officer's report and appendices dated 7th December 2015 attached as **appendix 2**

Natural England's Advice

5. The East Area Planning Committee's decision has not attached undue weight to the lack of objection from Natural England in favour of the comments of other

local organisations. The officer's committee report sets out in detail the representations that were made by all statutory bodies, organisations, and local residents through the respective consultation periods. The assessment has had regard to all of these comments in reaching the recommendation, and considered the impact of the development upon the Lye Valley SSSI.

6. With respect to Natural England, it is important to recognise that they have been established by Parliament and Schedule 4 of the Town and Country Planning (Development Management Procedure) Order 2015 requires Natural England to be consulted on all developments that are within or likely to affect a site of specific scientific interest (SSSI). This is because it has specific expertise in terms of considering matters such as the protection of the natural environment and the impact upon SSSI's. Therefore Natural England's comments should be afforded significant weight in the determination of the application.
7. In this regard Natural England has raised no objection to the development and is 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 also supported by Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT), and the Oxfordshire County Council Drainage Authority.

Maintenance of the Sustainable Urban Drainage Scheme

8. A Management Plan which accords with the industry standard (The SUDS Manual, CIRIA C697) has been submitted with the application. The plan sets out a comprehensive maintenance and monitoring schedule that would be implemented as part of the scheme to ensure that the drainage strategy will function as designed.
9. The call-in suggests that this commits the Council to potentially large expenses in perpetuity in order to maintain the SUDS system and it is not clear where these resources will come from to undertake this plan.
10. In submitting the management plan as part of the application, the Council has accepted its requirement to maintain the drainage strategy and for this to be secured through the mechanism of a planning condition. The expense of implementing this management plan is not a matter for the committee to consider in terms of whether or not to grant planning permission for the development. The material consideration for the committee would be whether or not this management plan would be effective in terms of maintaining the drainage strategy and the condition imposing that requirement can properly be imposed.. As such officers consider the management plan to be appropriate and have recommended that it is secured by the imposition of a planning condition.

Cautious Approach to the Impact upon the Lye Valley SSSI

11. The call-in suggests that the East Area Planning Committee's decision to approve the application has ignored the need for taking a highly cautious approach with respect to the impact upon the Lye Valley SSSI, as the area being put in potential danger is highly rare, and of national and even international significance.
12. In response to this point, it is incorrect to suggest that in approving the application the East Area Planning Committee has not taken a properly cautious approach to considering the impact upon the SSSI. In reaching their decision the East Area Planning Committee were advised of the need to take a precautionary approach in discussing the item at the meeting. Moreover, the officer's report sets out a balanced assessment of the development in line with the relevant development plan policies and other material consideration and has had specific regard to the impact of the development upon the SSSI.
13. The site allocation policy (SP60) within the Sites and Housing Plan acknowledges that the site is adjacent to the SSSI and recognises the need to take a precautionary approach by stating that permission will only be granted for the development if it can be proven that there would be no adverse impact upon surface and groundwater flows and the SSSI from increases in hard surfacing. The Sites and Housing Plan was adopted following an independent examination, wherein the document and its policies were found by the Planning Inspector to be sound. Similarly, Natural England the recognised statutory body responsible for the protection of the natural environment and designating Sites of Specific Scientific Interest would also be aware of the need to take a precautionary approach with respect to the impact upon the SSSI.
14. As such, officers consider that an appropriate precautionary approach has been taken at all stages in the planning process for this application, whether that be the allocation of the site for development within the Sites and Housing Plan, the design development of the scheme, and the consideration of the planning application by the East Area Planning Committee.

Long Term Viability of the Drainage Scheme

15. The call-in suggests that the SUDs system proposed by the developer as a means to mitigate the potential adverse effects on the Lye Valley reserve is unproven, and there is no reasonable assurance that it will work in the context of the complex water system of the area.
16. The officer's committee report specifically deals with this point in paragraph 16-22 (**appendix 2**).

Berkshire, Buckinghamshire, and Oxfordshire Wildlife Trust – Plan 'B'

17. The call-in suggests that the 'Plan B', that the Berkshire, Buckinghamshire, and Oxfordshire Wildlife Trust [BBOWT] stated was a condition for withdrawing their opposition to the application has not been submitted.

18. At the outset it is important to make clear that BBOWT have not objected to the scheme. In their response to the application they indicated that they were concerned about the impact of the development upon the special features Lye Valley SSSI due to the close proximity of the site. However, they went on to state that they support the conclusions of Natural England with respect to the proposal and that conditions should be secured to ensure the integrity of the site is maintained. There is no reference within their letter of comment to their needing to be a 'Plan B' in order to withdraw their opposition.

19. BBOWT suggest in one of its conditions that an action plan should be submitted which outlines the action that will be taken in the event of pollution of contamination of the proposed drainage system to prevent contamination of the aquifer. This would be dealt with through the submitted Management Plan which officers have recommended is secured by condition.

Conclusion:

20. 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.

Contact Officer: Andrew Murdoch, **Extension:** 2228, **Date:** 15th March 2016