

## East Area Planning Committee

5<sup>th</sup> August 2020

**Application number:** 20/00676/VAR

**Decision due by** 11th June 2020

**Extension of time** TBA

**Proposal** Variation of condition 2 (Develop in accordance with approved plans) of planning permission 13/01555/CT3 (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) to allow alterations to the garden boundaries to form a footpath at the rear of the site.

**Site address** Land East Of, Warren Crescent, Oxford, Oxfordshire – see **Appendix 1** for site plan

**Ward** Churchill Ward

**Case officer** Michael Kemp

**Agent:** Mr Peter Whybrow      **Applicant:** Oxford City Housing (Development) Limited

**Reason at Committee** The proposals are a variation to a major planning application

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## 1. RECOMMENDATION

1.1. The East Area Planning Committee is recommended to:

1.1.1. Delegate authority to the Head of Planning Services to **approve the application** for the reasons given in the report following the expiry of the notice period of 21 days and completion of the appropriate certificate relating to the requisite serving of notice of the application, as required under the Town and County Planning (Development Management Procedure) (England) Order 2015. Approval would be subject to the required planning conditions set out in section 12 of this report and subject to the provision of satisfactory updated drawings confirming that the amendments to the swale on the site do not conflict with the drainage strategy agreed under application 13/01555/CT3.

1.1.2. **Agree to delegate authority** to the Head of Planning Services to:

- Finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary.

- Agree the provision of amended drainage plans in consultation with relevant consultees.
- Decide whether to refer the application back to the East Area Planning Committee following the expiry of the notice period, if considered reasonably necessary.

## **2. EXECUTIVE SUMMARY**

- 2.1. This report considers an application to vary condition 2 of planning application 13/01555/CT3. Condition 2 relates to a requirement that the development is carried out in accordance with the approved plans relating to the aforementioned planning permission. Planning permission 13/01555/CT3 relates to a development comprising 10 dwellings, associated access, parking and landscaping which would be located on a small area of open space adjacent to Warren Crescent in Headington.
- 2.2. A variation is sought to form a publically accessible footpath to the rear of nine of the approved dwellings, as the approved plans do not allow for public access along the rear of the houses, given the gardens extend to the rear boundary of the site.
- 2.3. An application to divert public right of way 320/80 which passes through the centre of the site was submitted last year and consultation has been carried out on this order. Retention of the existing right of way is impractical and undesirable, as this crosses the position of the approved gardens serving the houses and in one instance the edge of the footprint of one of the houses. The diversion of the right of way, as proposed within the order submitted last year would involve a diversion of the existing route to the front of the approved dwellings along a section of Warren Crescent. The route would then pass to the side of the adjacent flats (33 to 34 Warren Crescent) before re-joining the remainder of the existing route to the south of the site. The diverted right of way would follow the indicative route of the redirected footpath indicated on the approved site plan for application 13/01555/CT3. Owing to a number of objections received from members of the public and amenity groups in relation to the application to divert the public right of way the order to divert the public right of way has been submitted to the Secretary of State for confirmation.
- 2.4. This variation of condition application seeks to address the public concerns raised in respect of the proposed diversion of the right of way to the front of the houses and the loss of a permissible route along the existing tree line and valley side, whilst also reconciling safety concerns expressed by the Police. As there are relevant concerns in respect of crime prevention and public safety, it is considered appropriate that the formal application to divert the definitive route of footpath (320/80) must proceed alongside this variation application, as the proposed route to the front of the houses is well-lit and benefits from natural surveillance. The creation of a new route to the rear, which would be possible if this variation application is approved, would allow a continuation of a potentially more pleasant route in visual terms, which has a slightly less urban character compared to the route alongside Warren Crescent. The route would offer

glimpsed views over the Lye Valley through the trees and vegetation to the east. Importantly users would not be obliged to use this route, which would not be lit and would not benefit from natural surveillance, given its position to the rear of the houses. Providing the application to divert the public right of way to the front of the site was successful and the diversion order confirmed, members of the public would also have the option to use this route.

2.5. Creating a footpath to the rear of the houses would result in a 2 metre reduction in the depth of the garden areas serving nine of the ten houses. Notwithstanding this, the size of the majority of the rear gardens of the houses would still exceed the footprint of the dwellings as required under Policy H16 of the Oxford Local Plan. The exceptions to this would be houses 6 and 7, however, the gardens of these units would measure just 4 square metres less than the footprint of the houses. Accounting for the dimensions, layout and orientation of the gardens, officers consider that the gardens would be acceptable as areas of private outdoor amenity space in line with Policy H16 of the Oxford Local Plan.

2.6. Taking these factors into account officers consider that the proposals are acceptable as they offer a route which would preserve a number of aspects of the existing route which users of the right of way through the site currently enjoy. Members of the public would not however be required to use the rear footpath which does not benefit from lighting or natural surveillance. The proposals are therefore considered to be acceptable and comply with the provision of relevant policies DH1, H14, H16, G1 and M1 of the Oxford Local Plan 2016-2036; and Policies GSP1, GSP4, CIP1, CIP3, TRP2 of the Headington Neighbourhood Plan.

### **3. LEGAL AGREEMENT**

3.1. Planning application 13/01555/CT3 was not the subject of a legal agreement and no legal agreement would be required for this variation of condition application.

### **4. COMMUNITY INFRASTRUCTURE LEVY (CIL)**

4.1. Planning application 13/01555/CT3 was subject to a CIL contribution requirement.

### **5. SITE AND SURROUNDINGS**

5.1. The site is located within a residential neighbourhood in Headington and consists of an area of open amenity space, surfaced car parking and access and is accessed from Warren Crescent to the west.

5.2. A row of terraced properties are located to the east of the site, which front Warren Crescent alongside a single storey row of garages. A pair of semi-detached dwellings is located to the north of the site. A three storey block of flats is located to the south west of the site, adjoining the site boundary. There is an allotment plot located to the north of the site. Access to the allotments is through the application site via an area of car parking and through the existing open space.

5.3. A public right of way (320/80) extends through the centre of the site. A plan showing the route of the existing public right of way is included below. This footpath extends from The Slade, in a position to the north east of the site and forms part of a wider network of public rights of way through the Lye Valley. There is a fence marking the eastern boundary of the site, beyond this is an area covered by trees and vegetation. The land to the east of the site falls away significantly beyond the site boundary into a small valley area containing the Boundary Brook, a small watercourse.



5.4. Planning permission (13/01555/CT3) was granted in September 2016 for the Erection of 10 two storey dwellings, consisting of five pairs of semi-detached houses. As the rear gardens of several of the dwellings and the footprint of one of the dwellings crosses the definitive route of the public right of way there would be a requirement to divert the route of the existing footpath in order to carry out the permission granted under application reference 13/01555/CT3. An application was made by the to divert the public right of way to a position to the front of the proposed dwellings, alongside Warren Crescent in order to enable the carrying out of the approved development. A public path diversion order was made by the Council and following the receipt of objections to the proposal, the diversion order was submitted to the Planning Inspectorate in January 2020 for confirmation. A decision on the confirmation of the order is currently awaited.

5.5. Planning permission was implemented in September 2019. This included trenching on the site and initial works to construct the foundations of two of the proposed houses. Development has since ceased as the effective carrying out of further works is dependent on whether the diversion order will be confirmed by the Secretary of State and further works would necessitate the diversion of the route.

5.6. The proposed site plan is included below:



## 6. PROPOSAL

6.1. This application seeks to vary condition 2 of approved planning permission 13/01555/CT3. The variation to the approved plans would permit the creation of a 2 metre pathway to the rear (east) of the approved dwellings. The purpose would be to facilitate public access to the rear of the properties thereby providing a continuous footpath to the rear of the houses along the existing fence and tree line.

6.2. Within the approved development (13/01555/CT3) this strip of land formed part of the private garden curtilage of nine of the approved dwellings which extended to the edge of the site boundary preventing public access to the rear of the houses. Under the present proposals the gardens of the dwellings would extend up to the newly formed access route and consequently the depth of the gardens would be reduced by 2 metres.

6.3. It is important to clarify that the proposed route to the rear of the properties would not be the new definitive route of footpath 320/80 and it is the Council's intention to proceed with the present order to divert the route of the public right of way to the front of the houses. The route to the rear of the houses if approved, would co-exist as an alternative route for members of the public to use.

## 7. RELEVANT PLANNING HISTORY

7.1. The table below sets out the relevant planning history for the application site:

02/02348/FUL - Demolition of garages and the erection of 18 dwellings comprising of 8x3 bed houses, 6x1bed flats in a 3 storey building, 2x1 bed
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bungalow and 2x2 bed bungalows. Formation of new vehicular access, provision of 18 parking spaces, erection of 12 garden sheds and a cycle store. Permitted 14th October 2003.

13/01555/CT3 - 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). Permitted 26th September 2016.

## 8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Oxford Local Plan 2016-2036	Headington Neighbourhood Plan:
Design	12	DH1	GSP1, CIP1, CIP3
Housing	5	H14, H16	
Natural environment	15	G1, G7, G8	GSP3
Transport	9	M1	TRP2
Environmental	11, 14	RE3, RE4, RE7, RE9	

## 9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 6<sup>th</sup> April 2020 and an advertisement was published in The Oxford Times newspaper on 26th March 2020.

### Statutory and non-statutory consultees

Oxfordshire County Council (Highways)

9.2. No objection

Oxfordshire County Council Rights of Way

9.3. No objection

Thames Valley Police

9.4. Disappointment was expressed that a path to the rear was sought contrary to advice from the Police. The previous advice raises concerns that the creation of a hidden and secluded route to the rear of the houses would increase anti-social behaviour and risk of crime including robberies and drug taking.

9.5. If approval is given it is recommended that the authority condition that the rear and side boundary treatments of the new dwellings are increased to at least 2.1m high and that the top 0.5m is visually permeable (trellis or similar would suffice). It is also recommended that the proposed bollards at either end of the path are removed or located more sensibly so that they do not create climbing aids to assist offenders with access into the already vulnerable rear gardens.

#### Natural England

9.6. An initial objection comment was submitted in respect of the reduction in the size of the swale. Further clarification was sought as to the changes in the design of the SUD's features. Following clarification from the applicant that the amendments to the swale would not affect capacity of this SUD's feature NE have indicated that they would not object to the proposed plans.

#### Environment Agency

9.7. Do not wish to comment

#### **Public representations**

9.8. Detailed comments were submitted by Dr Judith Webb of the Friends of the Lye Valley. No objection is raised with regard to the siting of the route of the footpath to the rear of the houses, though objections are raised with respect to other aspects of the scheme, as follows:

- Concerns regarding the size and capacity of the swale and the reduction in the size of the swale from what was previously agreed.
- No fencing is proposed in the south west area of the site where fly tipping occurs.
- Pallisade fencing is not appropriate and a more visually permeable type of fencing is sought to ensure views down the Lye Valley.
- Scrub planting in the south west area of the site is insufficient as a barrier to prevent fly tipping and is in an area where boreholes need to be monitored.
- Fencing surrounding the swale is inadequate to prevent rubbish dumping in the swale.
- Concerns are expressed regarding the retention of the trees surrounding the swale and new tree planting as leaf fall may compromise the function of the swale.
- The ridge along the top of the bank between the hedge and swale needs to be closed off to prevent fly tipping into the nature reserve and SSSI.

9.9. Five members of the public also commented on this application. In summary, the main points raised were as follows:

- Concern regarding impact of the development on the SSSI and reassurances sought that measures are implemented to ensure the protection of the SSSI.
- Fencing adjacent to the Lye Valley Nature Reserve must be visually permeable.
- Provision of close boarded fencing to the rear of the houses would remove security for residents.
- Fencing surrounding the SUD's must be visually permeable and attractive.
- The area to the north of the footpath must be kept open to allow this space to be used and to allow surveillance from the flats.

## **10. PLANNING MATERIAL CONSIDERATIONS**

10.1. Officers consider the determining issues to be:

- Principle of development
- Design
- Accessibility and Public Rights of Way
- Amenity
- Drainage
- Trees

### **Principle of development**

10.2. The approval of planning application 13/01555/CT3 established the in-principle acceptability of residential development on the site. Planning approval was granted for the provision of 10 socially rented dwellings and the approved consent was implemented in September 2019 through the commencement of construction works on two of approved dwellings, namely the digging of trenching to form the foundations of the houses.

10.3. The submitted plans relate only to the reduction in size of some of the rear gardens to nine of the ten properties to enable the creation of a footpath to the rear of the approved houses, therefore in principle matters relating to the siting of residential development on this site and other matters relating to the design of the houses, loss of open space and access/parking issues are not matters to be reconsidered under this variation of condition application.

### **Design**

10.4. Policy DH1 of the Oxford Local Plan states that planning permission will only be granted for development of high quality design that creates or enhances local distinctiveness, this is similarly reflected in Policies CIP1 and CIP3 of the Headington Neighbourhood Plan.

10.5. The footpath to the rear of the houses would be of a low key appearance visually as this would not be surfaced using any form of hard landscaping materials. The applicant has indicated that this would be a grass surface.

- 10.6. In relation to the comments raised regarding the treatment along the eastern boundary of the site adjacent to the Lye Valley, the applicant has proposed visually permeable green metal mesh fencing which would allow views from the footpath towards the Lye Valley and would reduce the sense of enclosure that may otherwise be experienced were the fencing to be a visually impermeable form of fencing, such as close boarded fencing. This would reduce potential fly-tipping on the valley sides, adjacent to the path, which has been raised as a public concern. For reasons clarified in the sections below, it is considered for the security of existing residents that close boarded fencing be required along the rear gardens of the houses, details of this fencing would be required as a pre-occupation planning condition.
- 10.7. Overall the proposed variations to the design of the scheme are considered to be acceptable in design terms. The proposed fencing adjacent to the Lye Valley and along the rear gardens of the houses is considered to be acceptable accounting for the context of the site and the need to provide security for future occupiers. The footpath design would be low key and natural in appearance accounting for the context of the site. The proposals would comply in design terms with Policy DH1 of the Oxford Local Plan and Policies CIP1 and CIP3 of the Headington Neighbourhood Plan.

### **Accessibility and Public Right of Way**

- 10.8. An existing public right of way (320/80) passes through the centre of the site. This footpath extends from The Slade, in a position to the north east of the site and forms part of a wider network of public rights of way through the Lye Valley. The route of the public right of way through the site is shown on the order plan included at Appendix 2 of this report (Points A to B to C). As the rear gardens of several of the dwellings, as well as the bin and cycle stores and the footprint of one of the dwellings crosses the definitive route of the public right of way, there would be a clear requirement to divert the route of the existing footpath in order to carry out the permission granted under application reference 13/01555/CT3.
- 10.9. The existing footpath forms part of a wider network of routes around the Lye Valley and it is important to consider the value of the route in relation to policy G8 of the Oxford Local Plan and its contribution to this wider green network. The route through the site has value both in terms of providing pedestrian connections between various parts of the Lye Valley and some intrinsic value in terms of providing views over the Lye Valley to the east of the site.
- 10.10. In general terms policy M1 of the Oxford Local Plan promotes the provision of high quality pedestrian connections, this includes ensuring that the urban environment is permeable and safe to walk through and adequately lit, with good and direct connections both within and across the wider network of pedestrian routes.
- 10.11. Policy TRP2 of the Headington Neighbourhood Plan places particular emphasis on the provision of connecting pedestrian and cycle routes, which should be made public or permissive rights of way where possible.

- 10.12. An application has been made by the City Council to divert the public right of way to the front of the proposed dwellings, alongside Warren Crescent (see Appendix 2 Points A to D to E to F to G to C) in order to enable the effective delivery of the approved development. Following public objections and in accordance with due procedure footpath diversion order was referred to the Secretary of State in January 2020 for confirmation and is currently pending a start date for consideration.
- 10.13. A number of respondents commenting on the application to divert the public right of way stated that the diversion of the footpath to the front of the approved dwellings, as proposed within the order would affect their enjoyment of the use of the public right of way. A number of respondents also suggested that the public right of way should be diverted to the rear of the approved dwellings continuing along the fence and tree line above the small valley area to the east of the site, thereby offering a more direct route, which also retains views over the Lye Valley. It should be noted that the current application does not propose that the definitive route of footpath 320/80 would be re-routed to the rear of the dwellings, rather that a new pathway would be created in conjunction with the diverted route of the public right of way to the front of the dwellings.
- 10.14. In considering the route of the proposed path to the rear of the houses, it is a requirement to consider the safety and suitability of this route. In terms of public safety, creating spaces which are safe for members of the public and which reduce opportunities for crime is a fundamental objective in creating positive spaces which function effectively and are socially sustainable. This is captured within various relevant policies in the National Planning Policy Framework and the Oxford Local Plan.
- 10.15. Paragraph 91 of the NPPF states that planning decisions should aim to achieve healthy, inclusive and safe spaces. Underpinning this is a need to ensure that new places are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas. Paragraph 127 of the NPPF which relates to the need to achieve well-designed spaces similarly requires the creation of spaces which are deemed to be safe. Policy DH1 of the Oxford Local Plan and related Appendix 6 specifies that Secured by Design Principles should be incorporated into the design of new developments, so as to minimise opportunities for criminal and anti-social behaviour.
- 10.16. The proposed new route of footpath 320/80 to the front of the houses as shown on Appendix 2 of this report, which is sought under the separate footpath diversion order would be well lit and would benefit from natural surveillance as this route is overlooked by existing properties in Warren Crescent. The route to the rear of the houses, as proposed within this variation of condition application would not be significantly overlooked, as this would pass between the rear fences of the houses, which for security reasons would need to be partially close boarded. For biodiversity and visual reasons it would not be appropriate to provide lighting along the route to the rear of the houses.

- 10.17. There would be benefits in terms of creating a route to the rear of the properties in terms of providing a more direct and slightly less convoluted route. The route to the rear of the houses would also allow users limited views over the valley area to the east through the eastern trees and vegetation. In this sense the route would retain some of the natural qualities which users of the current route experience. It should be noted though that the experience of users of any route through or adjacent to the site will be significantly altered once the development as approved is completed in any event, as the existing sense of openness on the site would be lost given the siting of the houses.
- 10.18. Notwithstanding the benefits of creating a path to the rear of the houses, officers consider it would not be appropriate for this path to form the definitive route of footpath 320/80 given the aforementioned lack of natural surveillance or ability to provide lighting along this route. If the route to the rear formed the definitive route of the public right of way, users would have no option other than to use this route. It should be noted that Thames Valley Police have objected to the application on the basis that the development would increase opportunities for anti-social and criminal behaviour as the route is secluded and poorly lit. There were also concerns raised that future occupiers of the houses would be put at risk of burglary.
- 10.19. The former of these points highlights the necessity that the Council proceed with the order to divert the route of footpath 320/80 to the front of the houses. By providing a dedicated route to the front of the site users of the right of way would not be required to use the rear route, therefore this would avoid putting users at risk of crime. On the latter of these points the risk to future occupiers of the houses would need to be addressed through the provision of secure fencing to the rear of the houses. Any proposed fencing would need to retain privacy for future occupiers, whilst the Police have recommended that the top 0.5 metres of the fencing would need to be visually permeable (trellis or similar) to enable some surveillance. The specific details of boundary treatments would be required as a pre-occupation planning condition.
- 10.20. In summary the creation of a footpath to the rear of the houses would offer benefits to existing users of the public right of way in providing a more direct route, which is less urban in character compared with the replacement route to the front of the site and would retain views over the Lye Valley. In this sense the development would be preserve, as best possible users enjoyment of the existing route, whilst enabling the development approved under application 13/01555/CT3 to proceed. Any risk of crime to future occupiers of the houses must be appropriately mitigated against through the provision of secure boundary treatments which preserve privacy, but also allow some natural surveillance. Users of the right of way would have the option to use the route to the front of the site, which benefits from lighting and natural surveillance. Taking these matters into account, officers consider that the creation of a route to the rear of the houses would comply with policies H14, DH1, G1 and M1 of the Oxford Local Plan and Policy TRP2 of the Headington Neighbourhood Plan.

## **Amenity**

10.21. The provision of a two metre access path to the rear of the approved dwellings would result in a two metre reduction in the depth of the external amenity spaces of nine of the approved dwellings, the exception being house 1, which would be unaffected.

10.22. Policy H16 of the Oxford Local Plan states that planning permission will only be granted for new dwellings that have direct and convenient access to an area of private open space. Houses of 1 or more bedrooms must provide a private garden, of adequate size and proportions for the size of house proposed, for exclusive use by occupants of that house. This should be at least equivalent in size to the original building footprint. Where a directly accessible private outside area is provided, the remaining requirement for outdoor amenity space could be met by provision of shared private amenity space. The private outdoor areas should allow space for outside dining and/or clothes drying, with reasonable circulation, which will require a minimum dimension of 1.5 metres deep by 3 metres long. The following factors will be material in assessing whether adequate space has been provided:

- i. The location and context of the development, in relation to the layout of existing residential plots, and proximity to public open space; and
- ii. The orientation of the outdoor area in relation to the path of the sun;
- iii. The degree to which enclosure and overlooking impact on the proposed new dwellings and any neighbouring dwellings; and
- iv. The overall shape, access to and usability of the whole space to be provided.

10.23. Each of the proposed houses has a footprint of 49 square metres. Notwithstanding the two metre reduction in the depth of the rear garden areas of the proposed houses, the majority of the proposed dwellings would still be provided with a rear garden area which exceeds the footprint of house. The exception would be units 6 and 7, where the garden areas would each measure 45 square metres. This would be 4 metres less than the footprint of the house, however this is a relatively small difference in terms of area. In respect of overall space and orientation the garden areas are still considered to be of a good standard.

10.24. In summary, notwithstanding the reduction in the size of the rear garden areas, officers consider that the future occupiers would be provided with appropriate levels of external amenity space, which would comply with the requirements of Policy H16 of the Oxford Local Plan.

### **Drainage and Flooding**

10.25. The submitted plans include minor amendments to the design of the swale which was previously consented as part of a comprehensive drainage strategy for the site. A detailed drainage scheme was agreed under the original planning application and the subsequent discharge of conditions application. Though there are changes to the swale design, which has included a reduction in the size of this SUD's feature, the applicant has confirmed that the capacity of the

swale would not be reduced. Updated drawings and calculations are required in order to ensure that this aligns with the agreed drainage strategy. Subject to there being no impact on the capacity of the swale, Natural England have confirmed that they would not object to the proposals.

10.26. A resolution from members to approve the application subject to the provision of updated drawings, which adequately demonstrate that the amendments to the swale would not conflict with the agreed drainage strategy is recommended.

10.27. Leaf fall into the swale, which has been raised as a concern by members of the public would be addressed through ongoing maintenance and management.

10.28. Subject to the provision of updated drawings, the proposals are considered to comply with policies RE3 and RE4 of the Oxford Local Plan.

## **Trees**

10.29. The revisions to the approved plans do not include the removal of any additional trees compared with the originally approved plans. The footpath would not be surfaced using hard surfacing materials and consequently this should not impact on the adjacent trees and hedgerow. Overall it is considered that the development would comply with the provisions of Policy G7 of the Oxford Local Plan.

## **11. CONCLUSION**

11.1. This application is submitted with the intention of providing a new publically accessible footpath to the rear of an approved development of 10 houses and should be viewed in conjunction with the current application to divert footpath 320/80 to the front of the site.

11.2. The provision of an additional route to the rear of the houses would retain a number of aspects of the existing route which users of the existing right of way currently enjoy, most notably views of the Lye Valley and the green character of the route. Users would also have the opportunity to also use the diverted definitive route of the footpath to the front of the houses if the order is confirmed, which benefits from lighting and natural surveillance, this would ensure that users are not required to use a route which would be perceived as potentially unsafe. Any increased risk of crime to future occupiers of the houses can be mitigated through the provision of appropriate and secure boundary treatments alongside the rear footpath.

11.3. There would be a small reduction in the size of the private gardens of 9 of the 10 houses. In the case of two of the houses, this would result in garden areas which would be marginally below the footprint of the houses, though this would be to a relatively minor extent (4 square metres). In all other respects in terms of the layout and orientation the gardens of the houses are considered to be of a good standard and a minor reduction in the depth of the gardens would not conflict fundamentally with Policy H16 of the Oxford Local Plan.

11.4. It is recommended that the Committee resolve to grant planning permission for the development proposed subject to the conditions outlined below and subject to the provision of satisfactory updated drainage plans, which account for the amendments to the swale.

## 12. CONDITIONS

1. The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans listed below, unless otherwise agreed in writing by the local planning authority.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy DH1 of the Oxford Local Plan 2016-2036.

2. The development shall be constructed in accordance with the materials approved under discharge of planning conditions reference 13/01555/CND3 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with policy DH1 of the Oxford Local Plan 2016-2036.

3. A plan showing the means of enclosure for the new development including details of the treatment of all the boundaries of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The approved treatment of all of the site boundaries shall be completed prior to first occupation of the approved development and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to safeguard the privacy of adjoining occupiers in accordance with policy DH1 of the Oxford Local Plan 2016-2036.

4. The refuse storage and cycle parking storage approved under discharge of planning conditions reference 13/01555/CND3 shall be installed before the development is first occupied and shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of providing for the residential amenities of the future occupants of the dwellings in accordance with policy DH7 and M5 of the Oxford Local Plan 2016-2036.

5. Notwithstanding the details approved under this planning permission, the development shall be carried out in accordance with the landscaping scheme approved under discharge of conditions reference 13/01555/CND3. The landscaping proposals as approved by the Local Planning Authority shall be carried out upon substantial completion of the development and be completed not later than the first planting season after substantial completion.

Reason: In the interests of visual amenity in accordance with policies CP1 and CP11 of the Adopted Local Plan 2001-2016.

6. No trees shall be wilfully damaged or destroyed or uprooted, felled, lopped or topped and no shrubs or hedges shall be cut down without the prior written consent of the Local Planning Authority. All tree protection measures agreed under discharge of conditions reference 13/01555/CND3 shall be implemented during the course of the construction works. No works or other activities including storage of materials shall take place within Construction Exclusion Zones unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect retained trees during construction. In accordance with policy G7 of the Oxford Local Plan 2016-2036.

7. The development shall be carried out in accordance with the detailed statement setting out the methods of working within the Root Protection Areas of retained trees agreed under discharge of conditions reference 13/01555/CND3 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect retained trees during construction. In accordance with policies accordance with policy G7 of the Oxford Local Plan 2016-2036.

8. Notwithstanding the details approved in this application, the development shall be carried out in accordance with the sustainable drainage scheme agreed under discharge of conditions application 13/01555/CND2 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent the increased risk of surface water flooding, improve water quality, and mitigate any possible changes to the hydrological regime of Lye Valley SSSI in accordance with Oxford Local Plan Policies RE3 and RE4.

9. The development hereby permitted shall be carried out in accordance with the recommendations set out in paragraph 8.38 - 8.66 of the approved Ecological Appraisal by BSG Ecology as approved under planning permission 13/01555/CT3 and the biodiversity enhancements set out within these sections shall be implemented before the development hereby permitted is first brought into use and shall remain thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting site biodiversity in accordance with Policy G2 of the Oxford Local Plan 2016-2036.

10. The development shall be carried out in accordance with the method statement for preserving ecology in the adjacent Lye Valley as agreed under discharge of conditions application reference 13/01555/CND3. The development shall be undertaken strictly in accordance with the approved method statement at all times.

Reason: In the interests of protecting site biodiversity in accordance with Policy G2 of the Oxford Local Plan 2016-2036.

11. The development shall be carried out in accordance with the programme of archaeological work and written scheme of investigation agreed under discharge of conditions reference 13/01555/CND3 unless otherwise agreed in writing by the Local Planning Authority.

Reason: Because the development may have a damaging effect on known or suspected elements of the historic environment of the people of Oxford and their visitors, including in accordance with Policy DH4 of the Oxford Local Plan 2016-2036.

12. The parking areas within the development shall be bound, formed, and laid prior to the first occupation of the development in accordance with the details approved under discharge of conditions application 13/01555/CND4 unless otherwise agreed in writing by the Local Planning Authority and shall be retained exclusively for that purpose thereafter.

Reason: In the interests of providing appropriate parking provision in accordance with Policy M3 of the Oxford Local Plan 2016-2036.

13. The allotment access shall be laid out, bound and formed in accordance with the construction and drainage details agreed under discharge of conditions application 13/01555/CND4 prior to the first occupation of the development and shall remain in place unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of providing appropriate access to the allotments in accordance with Policy M2 of the Oxford Local Plan 2016-2036.

14. The development hereby permitted shall not be occupied until the Order governing parking in the Girdlestone Road Controlled Parking Zone has been varied by the Oxfordshire County Council as highway authority to exclude the site, subject to this permission, from eligibility for resident's parking permits and residents' visitors' parking permits unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not generate a level of vehicular parking which would be prejudicial to highway safety, or cause parking stress in the immediate locality, in accordance with policies CP1, CP6, CP10 and TR13 of the Adopted Oxford Local Plan 2001-2016.

15. The construction phase of the development shall be carried out in accordance with the Construction Traffic Management Plan agreed under discharge of conditions application 13/01555/CND3 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not generate a level of vehicular parking which would be prejudicial to highway safety, or cause

parking stress in the immediate locality, in accordance with policy RE7 of the Oxford Local Plan.

16. Prior to the first occupation of the development hereby permitted the applicant shall submit to and obtain the agreement in writing of the local planning authority, a travel plan. The plan shall detail how it is proposed to achieve an annual reduction in the amount of vehicles accessing this site, the means for implementing the plan, method of monitoring and amending the plan on an annual basis. The results of the annual monitoring exercise shall be submitted to the local planning authority in writing and the travel plan amended accordingly in light of discussions with the local planning authority. The measures agreed in the approved Travel Plan shall be implemented on first occupation of the development.

Reason. To limit the number of journeys by private motor car and reduce the pressure for car parking in the locality in accordance with policy M1 of the Oxford Local Plan 2016-2036.

17. The development shall be carried out in accordance with the scheme for the provision of affordable housing agreed under discharge of conditions application 13/01555/CND3 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to secure the affordable housing provision on site in accordance with Policy H2 of the Oxford Local Plan 2016-2036.

18. The development shall not be occupied until confirmation has been provided in writing that 'Secured by Design (SBD)' accreditation has been achieved and until such time that the Council has acknowledged in writing that it has received written confirmation of SBD accreditation.

Reason: In the interests of community safety in accordance with Policy DH1 of the Oxford Local Plan 2016-2036.

19. The development shall be carried out in accordance with the sustainability strategy outlining sustainable design and construction methods to be incorporated into the building design, as agreed under discharge of conditions application 13/01555/CND3 unless otherwise agreed in writing by the Local Planning Authority. The agreed measures shall be implemented prior to first occupation of the development.

Reason: To minimise carbon emissions in accordance with policy RE1 of the Oxford Local Plan 2016-2036.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no structure including additions to the dwelling houses as defined in Classes A, B, C, D and E of Part 1 of Schedule 2 of the Order shall be erected or undertaken without the prior written consent of the Local Planning Authority.

Reason: The Local Planning Authority considers that even minor changes in the design or enlargement of the development should be subject of further consideration to safeguard the appearance of the area and the amenity of neighbouring properties and occupiers of the dwellings in accordance with policies DH1, H14 and H16 of the Oxford Local Plan 2016-2036.

21. The development shall be carried out in accordance with the details of external lighting approved under discharge of conditions application 13/01555/CND3. The external lighting shall be installed in accordance with the approved details and retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and the preservation of biodiversity in accordance with Oxford Local Plan Policy RE7 and G2.

22. The development shall be carried out in accordance with the phased risk assessment approved under discharge of conditions application 13/01555/CND. The development shall not be occupied until any approved remedial works, have been carried out and a full validation report has been submitted and approved to the written satisfaction of the Local Planning Authority.

Reason- To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use.

23. The development shall be carried out in accordance with the scheme for rainwater harvesting for domestic purposes approved under discharge of conditions application 13/01555/CND4. The recommendations of the study shall then be implemented in accordance with the approved details before the development hereby permitted is first occupied and shall be retained thereafter.

Reason: In the interests of sustainability in accordance with Oxford Core Strategy Policy RE1.

### **13. APPENDICES**

- **Appendix 1** – Site location plan
- **Appendix 2** – Footpath Diversion Plan

### **14. HUMAN RIGHTS ACT 1998**

- 14.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and

freedom of others or the control of his/her property in this way is in accordance with the general interest.

## **15. SECTION 17 OF THE CRIME AND DISORDER ACT 1998**

15.1. 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 relation to the specific concerns expressed by the police regarding the provision of the footpath to the rear of the site, officers have sought to actively address these matters. Officers have sought the provision of appropriate boundary treatments, which would be secured by planning condition, which would provide both security and surveillance over the newly pedestrian route. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

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