

Oxford City Planning Committee

28th June 2021

Application number:	21/01255/FUL		
Decision due by	6th July 2021		
Extension of time	TBA		
Proposal	Insertion of photovoltaic plates to roof. (Additional plans).		
Site address	Thurston, 3 Boults Close, Oxford, Oxfordshire – see Appendix 1 for site plan		
Ward	Marston Ward		
Case officer	Nia George		
Agent:	N/A	Applicant:	Ms Ruth English
Reason at Committee	This application was called in by Councillors Clarkson, Pressel, Fry, Munkonge, Rowley, Upton and Bely-Summers, for reasons of balancing the harm to a designated heritage asset against the benefits of renewable energy.		

1. RECOMMENDATION

1.1. Oxford City Planning Committee is recommended to:

1.1.1. **Refuse the application** for the reasons given in paragraph 1.1.2 of this report and to delegated authority to the Head of Planning Service to:

- finalise the reasons for refusal including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary.

1.1.2. The recommended reason for refusal is as follows:

The photovoltaic panels proposed to the eastern and southern roof slopes facing Boults Lane, by reason of their design, number, mass and siting, would result in the cluttering of the roofscape and appearance of the building. The proposal would be out of keeping with the surrounding area and detrimental to the character and appearance of the Old Marston Conservation Area, resulting in less than substantial harm that would not be outweighed by any public benefits. The application would be contrary to Policies DH1 and DH3 of the Oxford Local Plan, the NPPF, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. EXECUTIVE SUMMARY

2.1. This report considers a proposal to install 18no. photovoltaic plates to the roof slopes of the application site.

2.2. This report considered the following material considerations:

- Principle of development
- Design and impact upon designated heritage assets
- Neighbouring amenity
- Sustainability

2.3. The development is considered to be unacceptable. Due to their design, number, mass and siting, the proposed solar panels would result in the cluttering of the roofscape and appearance of the building, and the proposal would result in less than substantial harm that would not be outweighed by any public benefits. For those reasons the proposal is considered not to comply with the relevant planning policies set out in the report and the NPPF.

3. LEGAL AGREEMENT

3.1. This application is not subject to a legal agreement.

4. COMMUNITY INFRASTRUCTURE LEVY (CIL)

4.1. The proposal is not liable for CIL.

5. SITE AND SURROUNDINGS

5.1. The application site is located within the Old Marston Area of Oxford to the north-east of the city centre. The site is a bungalow located within a cul-de-sac north of Boults Lane; Boults Close. The property is located immediately to the north of the entrance of the cul-de-sac, in which all of the other properties within the Close are also bungalows. To the north, the application site backs onto allotments. The property is located within the Old Marston Conservation Area.

5.2. The group of bungalows within Boults Close are a relatively modern development within the Conservation Area, dating to the 1950's, and are considered to have a neutral impact upon the setting of the Conservation Area. All of the bungalows have a similar form, in which they have a long and narrow shape with pitched roofs. Although the properties in Boults Close may not have been intentionally designed this way, these features described result in the bungalows being considered to have a similar appearance to agricultural barns when viewed from above. It is considered however that the bungalows do not have any architectural significance. The bungalows are set back from the road in unevenly shaped and spaced plots. Most of the bungalows have unblemished roofscapes, however the application site has three roof lights located on a west facing roof slope, and two evacuated tube solar panels located on the south facing roof slope. These existing panels were installed onto the roof slope in 2006 without planning permission, however as these panels have been in

existence for over 4no. years, the panels are therefore immune from any planning enforcement action. The property also benefits from three flat roofed single storey extensions, two to the front of the property and one to the rear of the property.

5.3. See location plan below:



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Ordnance Survey 100019348

6. PROPOSAL

6.1. Planning permission is sought for the installation of photovoltaic panels to the roof of the property. A total of 18no. panels are proposed to the roof; 2no. panels located on the south facing slope, 9no. panels located on the east facing slope, 1no. panel on the west facing slope, and 6no. panels on the flat roof to the rear.

6.2. The Council has already refused a previous application for this development under application reference 21/00006/FUL on the grounds that they would be harmful to the Old Marston Conservation Area. The only changes made to this application in comparison to the previous application is that the 2no. panels proposed on the rear roof slopes of the property would be 'on roof' rather than 'in-roof', and the 10no. panels proposed on the front roof slopes would be of a different make and model.

7. RELEVANT PLANNING HISTORY

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

58/00491/M_H - Site for 3 dwelling houses and accesses (site of 1-6 Boults Close).. APPROVED 4th June 1958.

58/00932/M_H - Site and layout of cul-de-sac and 6 private dwellings with private garages (1-6 Boults Close).. APPROVED 8th October 1958.

59/00095/M_H - 1, 2 and 3 Boults Close - Erection of 3 detached private bungalows and 3 private garages with accesses. APPROVED 4th February 1959.

59/00439/M_H - 3 Boults Close - Private one storey dwelling with access. APPROVED 7th May 1959.

85/00718/PN - Extensions and alterations. APPROVED 3rd February 1986.

21/00006/FUL - Insertion of photovoltaic plates to roof. (Amended description).. REFUSED 16th April 2021.

8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Other planning documents
Design	117-123, 124-132	DH1: High quality design and placemaking	
Conservation/Heritage	184-202	DH3: Designated heritage assets	Old Marston Conservation Area Appraisal Historic England's guidance on 'Energy Efficiency and Historic Buildings – Solar Electric (Photovoltaics) Historic England's Good Practice Advice Note

			'Managing Significance in Decision-Taking in the Historic Environment'
Housing	59-76	H14: Privacy, daylight and sunlight	
Environmental	117-121, 148-165, 170-183	RE7: Managing the impact of development	
Miscellaneous	7-12	S1: Presumption in favour of sustainable development	

9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 27th May 2021 and an advertisement was published in The Oxford Times newspaper on 27th May 2021.

Statutory and non-statutory consultees

Old Marston Parish Council

9.2. No objection

Public representations

9.3. No third party comments received.

10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- Principle of development
- Design and impact on designated heritage assets
- Neighbouring amenity
- Sustainability

a. Principle of development

10.2. Policy S1 of the Oxford Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. This applies to

paragraphs 10 and 11 of the NPPF which state that a presumption in favour of sustainable development is at the heart of national planning policy. The Council will work proactively with applicants to find solutions jointly which mean that applications for sustainable development can be approved where possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with Oxford's Local Plan and national policy will be approved without delay, unless material considerations indicate otherwise.

10.3. Specifically, where this application is concerned, the Council shall support enhancements to people's homes where they accord with the identified requirements of local and national planning policy, in addition to the legislative requirements the Council is required to undertake. In this case, planning permission would be granted without delay subject to the acceptability of the design of the proposal and its impact upon designated heritage assets, in relation to Policies DH1 and DH3 of the Oxford Local Plan 2036, paragraphs 193 and 196 of the NPPF, and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal must also not be detrimental upon the amenity of neighbouring occupiers' in accordance with Policies H14 and RE7 of the Oxford Local Plan 2036. Finally this proposal must also accord with the sustainable design and construction principles outlined in Policy RE1 of the Oxford Local Plan 2036, in addition to paragraphs 153 and 154 of the NPPF.

b. Design and impact on designated heritage assets

10.4. Policies DH1 and DH3 of the Oxford Local Plan seek to ensure that development is of a high quality design, relates well to the existing house and its surroundings, and respects and enhances the historic environment.

10.5. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 196 also states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

10.6. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires Local Planning Authorities to have special regard to the desirability of preserving or enhancing the character and appearance of the conservation area.

10.7. A statement of justification was submitted with this application, making the case that the application should be supported. During this section, the issues raised by the applicant will also be addressed throughout when discussing the design of the proposal and the impact on the designated heritage asset.

- 10.8. A total of 10no. integrated PV panels are proposed to the existing pitched roof slopes of the property. Although these panels have been annotated on the proposed plans as 'in-roof' panels and justification from the applicant notes that they would be lying flush with the tiles, it must be noted that the plans showing the proposed south west elevation and the proposed south east elevation show that they would protrude from the roof slopes by 0.1m. Each of these panels would measure 1.4m in length and 1.0m in width, and are considered to have a similar scale individually to the 2no. existing evacuated tube solar panels on the property. Of these 10no. integrated PV panels, 8no. are proposed on the south eastern roof slope and would be located close together, forming an array of panels.
- 10.9. 6no. PV panels lying at a 10 degree angle are proposed to the flat roof of the single storey extension located to the rear of the site. This would result in the panels proposed on the flat roof protruding 0.275m above the existing flat roof. Each of these panels would measure 1.8m in length and 1.0m in width, and would be located close together, forming an array of panels.
- 10.10. 2no. 'on-roof' PV panels are proposed to the rear pitched roof slopes of the application site. Although these panels have been annotated on the proposed plans as 'on-roof' panels, it must be noted that the plans showing the proposed north east elevation show that they would not protrude from the roof slopes.
- 10.11. All of the panels proposed; both the integrated panels, 'on-roof' panels and those proposed to the flat roof, would be of a similar appearance.
- 10.12. Although the application site is set back from the entrance of Boult's Close, it is located directly opposite the entrance to the Close and is visible from the public realm on Boult's Lane. The south facing and east facing roof slopes are particularly noticeable from Boult's Lane. 10no. panels are proposed to the south and east facing roof slopes of the property facing the public realm on Boult's Lane, and when coupled with the two evacuated tube solar panels already existing on the south roof slope, the proposal would result in these two roof slopes being almost entirely covered in panels, particularly the eastern slope.
- 10.13. It is noted that the installation of solar panels on the primary façade of buildings in conservation areas is generally discouraged due to their unfamiliar appearance in the context of the historic character of the area. It is considered that due to the number, size and siting of the panels on these 2no. roof slopes, that the proposed panels would clutter the roof scape of the building when viewed from the public realm, and would be detrimental to the appearance of the property and the surrounding Conservation Area.
- 10.14. Due to the number of panels proposed coupled with their size and siting, it is considered that the panels would result in the principal façade of the property being prominent, and overall the property would be considered to have a dominant appearance when compared to the other bungalows in the Close, which have unblemished roof slopes. Furthermore, due to the reflective nature of solar panels, when this is considered together with the number and array of panels proposed, this would result in the roof slopes of the property being even

more prominent, as the panels would result in a highly reflective addition, covering a large area of the roof and would be particularly dominant and unduly eye catching as a result.

- 10.15. Due to these reasons outlined above, it is therefore considered that the proposal would not be of a high quality design nor would the proposed panels relate well to the existing dwelling and its surroundings, and in turn would not respect the historic environment.
- 10.16. Although the applicant notes that the panels located on the east facing roof slope would barely be seen from the road because the road and roof are located at right angles to each other, Officers consider that these panels would be visible from Boults Lane. These panels would be located on the pitched roof slope of the gable end of the property fronting the entrance to Boults Close. This gable is a very prominent and visible part of the property and therefore it is considered that the panels on this roof slope would be clearly viewed from Boults Lane. The applicant also notes that the two panels proposed to the south facing roof slope would look rather like roof lights, and if roof lights were proposed not PV panels, they would not need planning permission. It is considered however that the proposed panels would not resemble roof lights and do have a materially difference appearance, as the panels would be more reflective and prominent when compared to rooflights, as noted previously in this report.
- 10.17. To the north of the site from the allotments, there would be views of the 2no. panels on the east and west facing slopes and the 6no. panels on the flat roof rear extension. The flat roof element of the property extends up to the boundary of the site with the allotments and the rear roof slopes of the property are clearly visible from the allotments. Due to the properties of Boults Close being bungalows, this means their roof slopes dominate the views looking southwards from the allotments. The Old Marston Spatial Analysis Map shows significant view lines within the Conservation Area. One of these significant views is from the allotments looking south towards Boults Close, in which the rear of the application site would be visible within this view.
- 10.18. Although the panels proposed to the rear would be viewed from the allotments, the two panels on the east and west facing slopes, due to their location and their number, not forming an array of panels, are not considered to be detrimental to the appearance of the property nor the surrounding area. The panels proposed to the rear of the property on the flat roof, although they would be visible from the allotments, due to their shallow height and location on a flat roof extension, not on the main roof slopes of the host dwelling, would be considered not to be detrimental to the appearance of the property nor the character of the Conservation Area.
- 10.19. Officers also have regard to the fact that the property is currently in use as a C3 dwellinghouse and solar panels can be installed to a domestic premises in a Conservation Area, providing it is not fronting a highway using permitted development rights. This is subject to the panels meeting the relevant requirements and conditions of Class A, Part 14, of Schedule 2 of the town and

Country Planning (General Permitted Development) (Order) England 2015 as amended. As the panels proposed to the rear of the site would not front a highway, Officers have given consideration to this when assessing these panels.

10.20. In the negative features, vulnerabilities and opportunities for enhancement section of The Old Marston Conservation Area Appraisal, it states that many photovoltaic and photo-thermal cells are now visible within the Conservation Area. It emphasises that at present the design of many of these units would be considered to detract from the appearance of historic buildings, where they conceal and replace traditional roof details that make an important contribution to the character and appearance of both the building and area. Although the application site is not considered to be of high architectural importance, due to the nature of being a bungalow and its roof dominating in views of the property, coupled with the majority of the bungalows in the Close having unblemished roof slopes, the concealment of the original roof and the introduction of a large amount of panels, including an array of panels, would be considered to create a harmful precedent within the Close.

10.21. It is noted in Historic England's advice regarding energy efficiency and historic buildings that it states given the rapidity within which renewable energy technologies are evolving, renewable energy projects and their associated infrastructure should aim to be reversible where possible. This is echoed in the conditions of Class A, Part 14 of the Town and Country Planning (General Permitted Development) Order. Condition A. 2 (c) states that development is permitted subject to the following;

solar PV or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.

It is proposed to use in-roof solar panels to the pitched roof slopes of the host dwelling, and therefore this would entail the original roof tiles being removed and replaced with PV panels which are integrated into the roof. Although the application is not an historic building, and although the in-roof panels would create a lower profile, the original tiles would be removed and this would create difficulties in respect of the proposal being reversible.

10.22. Of material relevance to this application are recent planning applications at 45 Richmond Road, located within the Jericho Area of Oxford City, under application references 19/02641/FUL, 20/01938/FUL, and 20/02938/FUL. Planning permission was sought retrospectively for the installation of 15no. PV Solar Panels to the front and rear roof slopes. All of these applications were refused by the Local Planning Authority due to their impact upon the designated heritage asset of the Jericho Conservation Area. Application references 19/02641/FUL and 20/01938/FUL were appealed and dismissed by the planning inspectors. Officers afford great weight to these appeal decisions which are a material planning consideration, in which the planning inspectors' comments from the appeal decision of 19/02641/FUL are set out below. The full appeal statement can be found in Appendix 2.

“Paragraph 196 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

Given the size and scale of the development within the context of the CA as a whole, I consider it causes less than substantial harm to the character and appearance of the CA. Nevertheless, any harm to the significance of a designated heritage asset should require clear and convincing justification and in accordance with paragraph 196 of the Framework, any harm should be weighed against the public benefits.

I acknowledge the need to increase the use of renewable energy and to improve the energy efficiency of buildings. However, due to the scale of the development, the public benefits...are limited, and do not outweigh, the great weight that is required to be given, to harm caused to the significance of the designated heritage asset.

Overall, the development fails to preserve or enhance the character or appearance of the CA. Therefore, it is contrary to Policies DH1 and DH3 of the Oxford Local Plan 2016 – 2036 (2020) and paragraphs 192 and 196 of the Framework. These policies, amongst other things, require development to respect and draw inspiration from Oxford’s unique historic environment and respond positively to the significance, character and distinctiveness of the locality.”

- 10.23. Under application reference 20/02938/FUL, permission was sought for the temporary installation of panels for a 5 year period at the same property, 45 Richmond Road and was refused by the Council. An enforcement notice which was served by the Council to remove the panels was appealed and dismissed by the planning inspector. Officers afford great weight to this appeal decision which is a material planning consideration. The inspector in this appeal also noted that although permission was sought for a temporary time period, *“a temporary permission would perpetuate an unacceptable form of development in this location”*. The full appeal statement can be found in Appendix 3.
- 10.24. Having assessed the proposed panels both to the front and rear roof slopes of the property, Officers conclude that the panels proposed to the southern and eastern slopes facing Boults Lane would be harmful additions, detrimental not only to the appearance of 3 Boults Close, but also to the wider surrounding area. The proposal would be considered to cause less than substantial harm to the designated heritage asset, the Old Marston Conservation Area.
- 10.25. Due to the development proposal having been assessed as resulting in less than substantial harm to the significance of the Old Marston Conservation Area, in accordance with the NPPF, this harm has been weighed against the public benefits of the proposal, including, where appropriate securing its optimum viable use. Whilst the proposal would help the applicant in achieving a lower carbon footprint, no evidence has been provided to the Local Planning Authority to show that solar panels are the only method by which a lower carbon footprint

could be achieved by applicant. It is acknowledged that there is a need to increase the use of renewable energy which is supported by local plan policy and by the Oxford Citizens Assembly on Climate Change Report, and as such the public benefits associated with this proposal are recognised and are given some weight. However, due to the scale of the proposed development, the public benefits associated with climate change are limited, and do not amount to public benefits which would outweigh the great weight that is required to be given to the harm that would be caused to the significance of the designated heritage asset.

10.26. It is noted that in the justification statement provided with this application that the applicant notes climate change is the most important environmental challenge faced and any contribution to the easing of this crisis should be prioritised. It is also acknowledged that the proposed panels form part of a wider plan by the applicant in relation to achieving a carbon footprint reduction for the application site. The applicant wishes to install the proposed panels and store the electric charge from these panels in a battery in the garage to run the property. The applicant also wishes to install a charging port to charge an electric car which is proposed to be purchased, and to replace an existing gas fire with an electric fire.

10.27. Whilst environmental improvement both to buildings is acknowledged and supported, this must be carefully assessed and weighed against the statutory duty to protect and enhance the significance of designated heritage assets which the Local Planning Authority has. Furthermore, it is considered that many of these plans the applicant has to make a reduction in carbon can be undertaken without the installation of PV panels to the roof. Justification as to why other methods of generating power at the site other than PV panels have also not been provided to the Local Planning Authority to consider. As concluded above, it is considered that the public benefits identified in this scheme would not offset the harm that would be caused to the Conservation Area. Furthermore, although the applicant notes this proposal would achieve a significant carbon footprint reduction for 3 Boults Close, no data/numerical evidence has been provided with this application in the form of an energy statement to show exactly how much carbon reduction would result from the proposal.

10.28. The comments of justification for the proposal submitted by the applicant also note that no objections were received in response to the application by the local community nor statutory consultees including the Parish Council in the previously refused application. Whilst no objections have been received in response to the public consultation on the previous application and indeed this application, as stated above, the Local Planning Authority have a statutory duty to protect and enhance the significance of the Conservation Area and proposals have to be considered against both national and local policy and legislation.

10.29. In summary, the proposed development would not comply with Policies DH1 and DH3 of the Oxford Local Plan 2036. The proposed development is considered to cause less than substantial harm to the setting of the Old Marston Conservation Area, and this harm would not be outweighed by any public

benefits. Special attention has been paid to the statutory test of preserving or enhancing the character and appearance of the conservation area under Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, which it is accepted is a higher duty. It has been concluded that the development would fail to preserve the character and appearance of the Conservation Area, and so the proposal does not accord with Section 72 of the Act.

c. Impact on neighbouring amenity

10.30. Policy H14 of the Oxford Local Plan states that planning permission will only be granted for new development that provides reasonable privacy, daylight and sunlight for occupants of both existing and new homes. Policy H14 also states that planning permission will not be granted for any development that has an overbearing effect on existing homes. Appendix 3.7 of the Oxford Local Plan sets out guidelines for assessing the loss of sunlight and daylight using the 45/25 degree code.

10.31. Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that ensures that standards of amenity are protected. This includes the amenity of communities, occupiers and neighbours is protected in addition to not having unacceptable unaddressed transport impacts and provides mitigation measures where necessary.

10.32. The application site is located between Nos. 2 and 4 Boults Close. The proposed panels would comply with the 45 degree angle test when applied to the openings of both neighbouring properties, and therefore are considered not to have any detrimental impacts upon the daylight afforded to the neighbouring properties. The proposed panels would not result in a significant enlargement to the dwelling and therefore would be considered not to have any overbearing impacts upon neighbouring properties or affect outlook. No changes to the existing openings at the property are proposed and therefore there would not be any impacts upon neighbouring privacy.

10.33. Had the overriding reason for refusal not applied, the proposal would be considered to comply with Policies H14 and RE7 of the Oxford Local Plan.

d. Sustainability

10.34. Policy RE1 states that planning permission will only be granted where it can be demonstrated that the following sustainable design and construction principles have been incorporated, where relevant:

- a) Maximising energy efficiency and the use of low carbon energy;
- b) Conserving water and maximising water efficiency;
- c) Using recycled and recyclable materials and sourcing them responsibly;
- d) Minimising waste and maximising recycling during construction and operation;
- e) Minimising flood risk including flood resilient construction;
- f) Being flexible and adaptable to future occupier needs; and
- g) Incorporating measures to enhance biodiversity value.

10.35. The development proposal complies with the sustainable design and construction principles outlined in Policy RE1. Specifically, in this case, the development proposal maximises energy efficiency and the use of low carbon energy.

10.36. Both national and local policy favours the inclusion of improvements to building fabric. Policy RE1 of the Oxford Local Plan 2036 and paragraphs 153 and 154 of the NPPF have a presumption in favour of improving the sustainability credentials of existing buildings and maximising the use and generation of low carbon energy. However, this presumption in favour of sustainable construction and design must be weighed against other considerations, including the design and impact upon designated heritage assets.

10.37. Historic England's advice in their Good Practice Advice Note 'Managing Significance in Decision-Taking in the Historic Environment' regarding improvements to buildings in conservation areas suggests that applicants should investigate whether there are other, less obtrusive, ways to achieve the same environmental benefits through less harmful means. This principle should be applied in this case in relation to the proposed panels. There is no evidence that has taken place either through seeking pre-application advice prior to the submission of this planning application, nor the submission of the previously refused application. The application submitted has also not provided any evidence to identify what or if any other forms of less obtrusive methods have been considered. It is acknowledged that wider changes to the property are proposed, including the installation of an EV charging point and the replacement of a gas fire with an electric fire. However in regards to reducing the carbon footprint of the property which appears to be main driver of this proposal, no justification has been provided to show that the panels proposed are the only solution. For example, the Council Consider that reducing the carbon footprint of the property could be implemented by alternative measures such as improvements to the thermal efficiency of the building's fabric or other renewable energies such as ground source heat pumps.

10.38. Had the overriding reason for refusal not applied, the proposal would be considered acceptable in terms of sustainability, and would comply with Policy RE1.

e. Other matters

10.39. There is increasing public awareness about the issue of climate change, which is demonstrated by the Council's decision to declare a climate emergency. The Council's policies and requirements relating to reducing carbon emissions in the city and responding to climate change are an important part of that dialogue. It is considered that a reduction in carbon emissions and the improvement of the energy efficiency of buildings can be facilitated by a number of available measures, and not just through the installation of PV panels. However, on planning matters the Council is required to consider national legislation and planning policy and weigh all these considerations together when determining a

planning application. In this case, whilst the Council has considered the need to reduce carbon emissions from energy generation, the Council must also base its decisions around the requirements of national and local policy, specifically the NPPF and the Oxford Local Plan 2036. It is considered for the reasons set out within the report, that a carbon footprint reduction does not outweigh the specific national and local planning policy requirements in this case to carefully assess the harm caused to a designated heritage asset, and the Council's statutory responsibility when determining planning applications that affect buildings in conservation areas to preserve or enhance that Conservation Area.

11. CONCLUSION

- 11.1. On the basis of the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes it clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.
- 11.2. In the context of all proposals paragraph 11 of the NPPF requires that planning decisions apply a presumption in favour of sustainable development. This means approving development that accords with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 11.3. The application seeks planning permission for 18no. PV panels on the roof of the residential dwellinghouse at 3 Boults Close. While the proposal does not give rise an unacceptable loss of neighbouring amenity, as per Policies H14 and RE7, and supports the principles of sustainable design and construction, as set out in Policy RE1, the proposal is unacceptable in terms of its design and its harm upon the Old Marston Conservation Area, a designated heritage asset. The proposal therefore fails to accord with Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 which is a statutory duty and higher test when assessing development proposals which impact on conservation areas. The harm the proposal gives rise to through its poor design also is not justified or offset by any identified public benefit and is therefore contrary to paragraphs 193 and 196 of the NPPF and Policies DH1 and DH3 of the Oxford Local Plan 2036.
- 11.4. It is therefore recommended that the Committee resolve to refuse planning permission for the reason given in paragraph 1.1.2 of this report with delegated authority being given to the Head of Planning services to finalise the wording of those reasons.

12. APPENDICES

- **Appendix 1** – Site location plan
- **Appendix 2** – Appeal Decision – application reference 19/02641/FUL
- **Appendix 3** – Appeal Decision – enforcement reference 19/00404/ENF

13. HUMAN RIGHTS ACT 1998

13.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to refuse] 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.

14. SECTION 17 OF THE CRIME AND DISORDER ACT 1998

14.1. 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 reaching a recommendation to refuse] planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

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