

Oxford City Planning Committee

10th August 2021

Application number: 19/02816/FUL

Decision due by 27th December 2019

Extension of time 16th February 2021

Proposal Demolition of existing garage and erection of 1 x 4-bed dwelling and 1 x 5-bed dwelling (Use Class C3). Provision of amenity space, car parking and bin and cycle stores. Associated landscaping and boundary treatments. (amended plans)

Site address Land Between 45 And 51, Hill Top Road, Oxford, Oxfordshire – see **Appendix 1** for site plan

Ward St Clement's Ward

Case officer James Paterson

Agent: Mr Stephen Broadley **Applicant:** Mr J Asquith

Reason at Committee This application was called in by Councillors Hayes, Chapman, Tanner, Clarkson, Munkonge and Lygo due to concerns around car parking, amenities, neighbouring amenities, and the use of the site.

The application was previously considered at West Area Planning Committee on 9th February 2021 where the committee resolved to grant planning permission subject to a legal agreement. The application has been brought back to committee as the applicant has not agreed to enter into the legal agreement.

1. RECOMMENDATION

1.1. Oxford City Planning Committee is recommended to:

1.1.1. **refuse the application** for the reason given in paragraph 1.1.2 of this the report and delegate authority to the Head of Planning Services to:

- finalise the reason 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 application site is already subject to an extant permission for the erection

of a single dwellinghouse (19/02817/FUL), which, if implemented, would be located to the rear of the site. The two dwellings proposed as part of this application would be located to the front of the site and therefore the implementation of this permission would mean that it would not be impossible to implement permission 19/02817/FUL. Therefore, although the proposed development would be acceptable if implemented on its own, the Council has no way to prevent all three dwellings associated with the planning permissions 19/02816/FUL and 19/02817/FUL; the implementation of both permissions would give rise to an unacceptable arrangement on the site which would include an adverse impact on residential amenity and an overdevelopment of the site and failing to accord with Policies RE1, DH1, H14 and H16 of the Oxford Local Plan 2036 or paragraph 127 of the NPPF. The applicant has refused to enter a legal agreement where they agree to only implement one permission and therefore this application must be refused.

2. EXECUTIVE SUMMARY

- 2.1. This report considers an application for the erection of two semi-detached dwellinghouses with stores in the rear gardens. The houses would be set towards the front of the plot, to match the front building line of no. 51 and would be two and a half storeys in height. Outbuildings are proposed to be constructed at the rear and landscaping and boundary treatments are also included in the proposals.
- 2.2. Officers consider that the proposals, in isolation, would accord with the policies of the development plan when considered as a whole and the range of material considerations support the grant of planning permission.
- 2.3. The scheme, when considered in isolation, would also accord with the aims and objectives of the National Planning Policy Framework. The proposal would constitute sustainable development and given conformity with the development plan as a whole.
- 2.4. However, without a legal agreement with the Council or unilateral undertaking being in place, there is no way that the Council can prevent the implementation of the extant permission on the site for a single dwellinghouse (reference 19/02817/FUL). Both that extant permission and any permission resulting from this application could therefore be implemented which would lead to an unacceptable arrangement, in planning terms, on the application site.
- 2.5. Members should note that this application has previously been presented to the West Area Planning Committee in February 2021 with a recommendation to grant planning permission on the basis that the applicant was intending to enter into a legal agreement with the Council; that legal agreement would have precluded them from implementing both the extant permission and the permission associated with these proposals. The committee report from February 2021 has been included as **Appendix 2**. The applicant has now indicated that they will not enter into a legal agreement as they are unwilling to pay the associated fee for the agreement to be drafted by the Council. As a result, notwithstanding the previous committee resolution to grant planning

permission subject to the aforementioned legal agreement officers must now recommend that members consider these proposals in the absence of the legal agreement and officers are recommending planning permission is refused.

3. LEGAL AGREEMENT

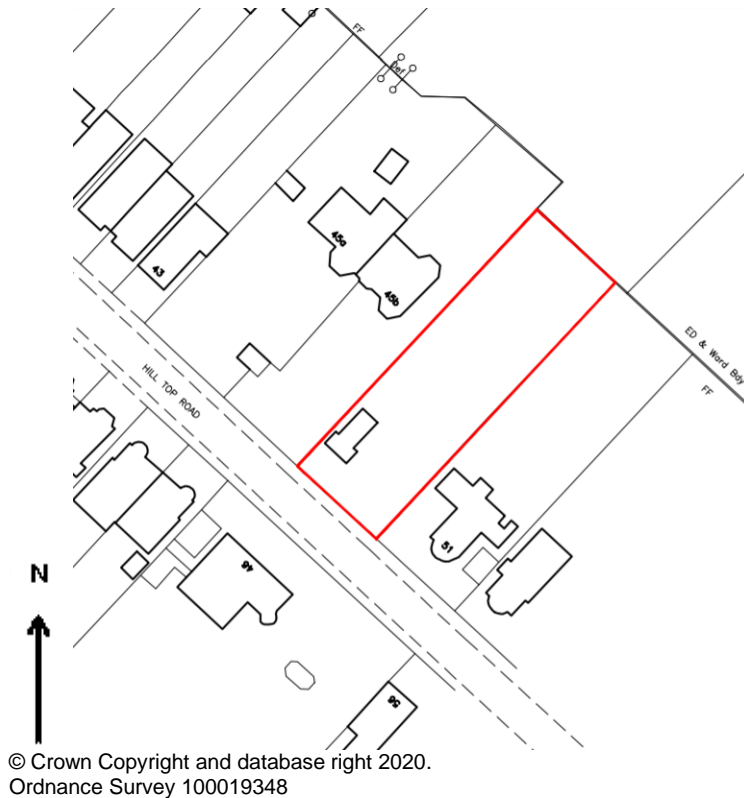
- 3.1. It is recommended that planning permission could only be granted in this case subject to the prior completion of a section 106 unilateral undertaking or agreement to ensure that the applicant could only implement this planning approval or the extant permission for a single dwelling to the rear of the site, 19/02817/FUL. This is because, in the view of planning officers, in isolation both applications would be acceptable however, without a legal agreement in place, both the extant permission, 19/02817FUL and the scheme that is the subject of this report could both be implemented lawfully. However, it would be unacceptable in planning terms for both developments to take place. Therefore a unilateral undertaking or agreement ensuring that the applicant may only implement one permission would be necessary to ensure any development which may take place would be acceptable in planning terms. However, the applicant has refused to enter any such agreement and this application is therefore unacceptable.

4. COMMUNITY INFRASTRUCTURE LEVY (CIL)

- 4.1. The proposal is not liable for CIL as officers are recommending refusal.

5. SITE AND SURROUNDINGS

- 5.1. The site is located on the north side of Hill Top Road. The application site consists of an area of scrubland with a disused garage. Several protected and mature trees surround the site, both within and outside the site itself.
- 5.2. The street is characterised by its eclectic mixture of generous late Victorian villas, semi-detached Edwardian houses and later infill developments. To the north lies research and educational facilities associated with the University of Oxford. In all other directions lie residential dwellinghouses. To the north-west lies Nos. 45a and 45b, a pair of semi-detached dwellings, which are something of an anomaly in the street by virtue of their siting towards the rear of their plots. To the south-east lies No. 51, a detached property constructed in an Edwardian style, typical of this portion of the street. To the south lies No. 46. This is a very generously proportioned house which has been significantly extended.
- 5.3. Members should note that there is extant permission on the site for a single dwellinghouse to the rear of the site (19/02817/FUL), which was approved by the West Area Planning Committee in October 2020. The dwellinghouse approved in that application would not overlap the dwellings proposed as part of this application and therefore, without a legal agreement, there is no way to prevent both schemes being implemented.
- 5.4. See location plan below:



6. PROPOSAL

- 6.1. This application proposes to demolish the existing garage, which is located towards the front of the site. A set of two new semi-detached dwellinghouses would be erected towards the front of the site, in line with the dwellinghouse at No. 51 and most of the other dwellings on the north side of the street, being set 6m back from the front boundary. The eastern dwelling would be larger than the western dwelling. The dwellings would be of red brick construction with plain clay tiled roofs and painted timber framed windows. The dwellinghouses would be set across two storeys, with additional accommodation in the roof and basement and would have large, steep roofslopes, which slope away to the front and rear, with two large gables to the front elevation. To the rear, the larger house would have a single gable while the other house would have a staggered rear elevation with no gable to the rear. The houses would be up to 12m wide and the smaller house would be up to 11m deep while the larger house would be 18.8m deep. The height to the eaves would be 5.6m while the height to the ridge of the roof would be 8.9m.
- 6.2. It is also proposed to erect a cycle store in the rear of each garden. These would house 4 cycle parking spaces for the smaller house and 5 for the larger. It is noted that a garden room was also included for the larger dwelling in the site plan. However, this has been removed from the final drawing package given that it was not in the application form or description.
- 6.3. Minor landscaping is also proposed, including the subdivision of the rear garden into two, the creation of a driveway to the front and the erection of a new front boundary treatment.

7. RELEVANT PLANNING HISTORY

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

16/02777/TPO - Raise canopy of 1No. Beech tree (T2) to 4m as identified in City of Oxford Hill Top Road No.1 Tree Preservation Order 1998.. PER 29th November 2016.

17/01832/FUL - Erection of 1 x 6 bed dwellinghouse (Use Class C3). Retention of existing garage for use as utility room/store. Alterations to form new vehicle access. Provision of private amenity space, car parking and bin stores. Approved 14th September 2017.

18/00858/FUL - Erection of 1 x 6 bed dwelling house (Use Class C3). Formation of garage to habitable space and provision of private amenity space, car parking and bin stores.. Approved 31st May 2018.

19/02815/FUL - Demolition of existing garage and erection of a 1 x 4-bed dwelling and a 1 x 6-bed dwelling (Use Class C3). Provision of amenity space, car parking and bin and cycle stores. Associated landscaping and boundary treatments.. Refused 13th January 2021.

19/02817/FUL - Demolition of existing garage. Erection of 1 x 6-bed dwelling (Use Class C3) and erection of detached garage. Provision of amenity space, bin and cycle stores. Associated landscaping and boundary treatments.. Approved at Committee 20th October 2020.

8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Other planning documents	Neighbourhood Plans:
Design	130-136	DH1, DH7, H14, RE2		
Conservation/ Heritage	197-202,208	DH4		
Housing	60-80	H15, H16		
Natural environment	174, 180	G7, G8		

Transport	117-123	M2, M3, M4 M5		
Environmental	124-125, 159-169	RE1, RE4, RE7, RE9		
Miscellaneous	11	S1, S2		

9. CONSULTATION RESPONSES

- 9.1. Site notices were displayed around the application site on 14th November 2019 and again on 4th December 2020, following the receipt of revised drawings to address the impact on protected trees.

Statutory and non-statutory consultees

Oxfordshire County Council (Highways)

- 9.2. No objection, conditions required

Public representations

- 9.3. Two local people commented on this application from addresses on Hill Top Road.
- 9.4. In summary, the main points of objection (two residents) were:

- Building Line
- Effect on character of area
- Effect on privacy
- Local ecology, biodiversity
- Scale of development

Officer response

- 9.5. Officers have considered carefully the objections to these proposals. Officers have come to the view, for the detailed reasons set out in the officer's report, that the reasons for the objections do not amount, individually or cumulatively, to a reason for refusal and that all the issues that have been raised have been adequately addressed and the relevant bodies consulted. The only basis for refusing planning permission in this case would arise from the opportunity that would exist to implement both the extant scheme (19/02817/FUL) and the proposed scheme in tandem (19/02816/FUL).

10. PLANNING MATERIAL CONSIDERATIONS

- 10.1. Officers consider the determining issues to be:

- i. Principle of Development
- ii. Design
- iii. Neighbouring Amenity
- iv. Occupier Amenity
- v. Archaeology
- vi. Protected Trees
- vii. Drainage
- viii. Ecology
- ix. Land Quality
- x. Car Parking
- xi. Cycle Parking
- xii. Sustainability
- xiii. Other Matters

i. Principle of development

- 10.2. Where proposals are presented for housing development on unallocated brownfield sites, the City Council will take a positive approach, applying the presumption in favour of sustainable development as required by Policy S1 of the Oxford Local Plan 2036.
- 10.3. Policy RE2 states that planning permission will only be granted where development proposals make efficient use of land. Development proposals must make best use of site capacity, in a manner compatible with the site itself, the surrounding area and broader considerations of the needs of Oxford, as well as considering the criteria set out in the policy.
- 10.4. Planning officers consider that the demolition of the existing garage and erection of two new dwellings on the disused plot would make a better use of the land than the existing arrangement. Planning officers note that the site is very generously proportioned and in a sustainable location and have considered whether the proposed development makes sufficiently efficient use of the land; specifically whether the capacity for further dwellings has been considered. This consideration has taken place in the context of there being extant permission (reference 19/02817/FUL) on the land for a single dwelling. That permission was granted, partly on the basis that, at the time of that decision, there was extant permission for a single house (18/00858/FUL), although the footprint of the dwellings of permissions 18/00858/FUL and 19/02817/FUL overlapped so that it would have been impossible to implement both permissions, in addition to the fact that the protected trees constrain the amount of development that may take place on the site. However, since that application was approved, further evidence from the applicant has been submitted in relation to the protected trees and further advice has been received by the Council's technical experts on this matter. With this in mind, it

is considered that the two proposed dwellinghouses could be erected without harming the protected trees.

- 10.5. Planning officers understand the delicate balance between overdevelopment of the site and making an efficient use of the available space. A comprehensive assessment of all of these issues can be found in the following sections of this report; however, in summary, planning officers consider that the proposal, in isolation, maximises the efficiency of the proposed land use in a manner compatible with the site. Indeed, for the most part the proposal would not be dissimilar to the surrounding grain of development when considering the number of large semi-detached Edwardian dwellinghouses nearby which are situated on similarly sized plots of land. However, officers must take into consideration the fact that the dwelling approved as part of 19/02817/FUL could also be readily implemented at any time, which is a material planning consideration. Given that there is no way of reasonably preventing this from occurring without a legal agreement, the possibility of all three houses being erected must be considered as part of this application. Planning officers consider that the proposal would lead to cramped conditions which would overdevelopment the site and would not represent a scale of development that is compatible with its surroundings and therefore would fail to accord with Policy RE2.

ii. Design

- 10.6. Policy DH1 of the Oxford Local Plan 2036 states that planning permission will only be granted for development of high quality design that creates or enhances local distinctiveness. Proposals must be designed to meet the key design objectives and principles for delivering high quality development, set out in Appendix 6.1.
- 10.7. Considering the application in isolation, the overall form and appearance of the houses reflect both the large Victorian villas and Edwardian semi-detached dwellings that characterise the area. The design draws from elements of both of these types of houses by utilising the materiality and roof typology typical of Victorian houses while the bay window, proportions and fenestration reflect Edwardian characteristics. While there would be non-traditional elements to the rear which sit uncomfortably with the rest of the building, such as the long protruding gable of the larger dwelling and the disordered rear elevation of the smaller dwelling, these elements would not be readily visible in the public realm and would therefore have an acceptable impact in terms of design considerations.
- 10.8. Officers have carefully considered the layout of the site and note that a large dwelling, which was set towards the rear of the site, was previously approved on the site (19/002817/FUL). Planning officers consider that this development proposal, where the houses would be set forward in the plot, would better respect the typical arrangement and character of the street and would sit more comfortably in the wider streetscene.
- 10.9. Given the careful consideration in terms of design and the sensitivity of the site, Had the recommendation been to approve, officers would have

recommended a condition to remove permitted development rights so that any future extensions made to the dwellinghouses would require planning permission. This would ensure any future alterations to the houses would have been carefully considered by the Council.

- 10.10. However, when taking into account the cumulative impact that would result from the proposed development as well as the extant permission in the site, 19/028/17/FUL, planning officers consider that the proposed development would not respond to the grain of development in the area, as a result of the erection of generous dwellings built both to the front and rear of the site. The proposal would therefore totally overdevelop the site and lead dwellings that would not sit comfortable on the site and the site itself also being incongruent with the rest of the streetscene.
- 10.11. Having considered the above, the proposal is therefore unacceptable in terms of design and Policy DH1.
- 10.12. Policy DH7 of the Oxford Local Plan 2036 states that permission will only be granted where outdoor needs are properly accommodated, including refuse and recycling storage. Bins should be provided in accordance with Oxford City Council's Technical Advice Note on bin storage.
- 10.13. No bin stores have been proposed, however it is considered that this is acceptable as there is sufficient room on the site to accommodate any bins associated with the proposed dwellings. The proposed cycle stores are acceptable in terms of their size, materials and appearance.
- 10.14. Therefore the proposal is acceptable in terms of Policy DH7, even with the extant permission having been considered.

iii. Impact on neighbouring amenity

- 10.15. Policy H14 of the Oxford Local Plan 2036 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 sets out guidelines for assessing development in terms of whether it will allow adequate sunlight and daylight to habitable rooms of the neighbouring dwellings.

Daylight

- 10.16. When considering the proposed dwellings in isolation, the proposal accords with the 25/45 degree access to light test, outlined in Policy H14. Having considered this, the layout of the site and the orientation of the sun, the proposals would not impact the amount of daylight received by the internal rooms of neighbours. While the proposed houses would be large, it is noted that they are set away from the boundaries and sensitive parts of neighbours' outdoor amenity space and are unlikely to lead to a significant daylight loss to neighbours' gardens.
- 10.17. Planning officers note that neighbouring residential occupiers are vulnerable to additional windows and extensions being added to the proposed dwellings at a

later date. However, conditions could have been included curtailing permitted development rights in this respect.

10.18. However, when taking into account the cumulative impact that would result from the proposed development as well as the extant permission in the site, 19/028/17/FUL, planning officers consider that the proposed development would not accord with the 25/45 degree access to light test. Therefore, having also considered the orientation of the sun, the proposed dwellings and the approved dwelling to the rear of the site would unacceptably impinge on one another's daylight and also result in unacceptable overshadowing.

Privacy

10.19. In considering the proposal in isolation from the extant scheme, officers consider that the proposed glazing to the rear of the house is considered acceptable as the views from these windows would be channelled rearwards, away from neighbours, by the extensive vegetation on the boundaries. While the front windows of no. 45b and the rear garden of No. 51 would likely be perceptible from the rear windows of the proposed dwellings, it is considered that there would be sufficient screening to limit these views to unobtrusive glimpses without significant views of the internal rooms or amenity areas of neighbouring dwellings.

10.20. It is noted that the majority of side windows would be at ground floor level and would have their views towards neighbouring dwellings and gardens largely blocked by boundary treatments. The side windows above ground level on the smaller dwelling would face the front garden of no. 45b. These views would not lead to a loss of privacy as they would only have views of some of the front garden which is of low amenity value to the occupiers of no. 45b. In any case, these views would be heavily screened by protected trees. The only side window above ground level which faces no. 51 is a small bedroom window. This would be further to the rear of the plot than the upper side window of no. 51 and so there would not be unacceptable inter-looking of between the internal rooms of the proposed dwelling and the neighbour. While some views would be possible of no. 51's garden these would be limited to glimpses, due to the acute angle, and these views screened by the vegetation on the boundary.

10.21. There would also be sufficient distance between no. 26, across the street, and the proposed dwelling to protect the privacy of occupiers of that dwelling. The distances between no. 26 and the proposed dwelling is typical of the arrangement on Hill Top Road.

10.22. However, when taking into account the cumulative impact that would result from the proposed development as well as the extant permission in the site, 19/028/17/FUL, planning officers consider that the proposed development would result in an unacceptable lack of privacy for both the two dwellings proposed as part of this application and the approved single dwelling. This is because the distance between the rear windows of the proposed 'House 2' would be set only 5m from the front windows of the approved dwelling to the rear of the site. There would therefore be unacceptable inter-looking and views

of private indoor and outdoor amenity space between the dwellings and there would be a total lack of privacy. The proposed arrangement is therefore not acceptable.

Overbearing

- 10.23. Considering this application independent of the extant permission, officers consider that while the proposed development would be of a significant height, it would be set 3m from the mutual boundary with no. 51 and would, for the most part, be built alongside that dwelling and would be of a similar scale. This neighbour would therefore not be unacceptably impacted by the development proposal. The outlook of the side windows of no. 51 would be changed to include views of a large dwelling. However, given the distance of 6m between the dwellings and mature vegetation to screen much of the new dwelling, it is considered that this impact would be acceptable.
- 10.24. The proposed dwelling would not be overbearing on the dwelling of no. 45b due to the fact that this dwelling would be set a significant distance in front of no. 45b. While the proposed development would be set close to the boundary with that neighbour, the fact that this would be next to a low value area of that neighbours' front garden in conjunction with the screening from mature protected trees means that development would not be overbearing to this neighbour.
- 10.25. The proposed cycle stores would not be of significant height and therefore would not be overbearing to the occupants of no. 45b.
- 10.26. However, when taking into account the cumulative impact that would result from the proposed development as well as the extant permission in the site, 19/028/17/FUL, planning officers consider that the proposed dwellings and the approved dwelling would have an unacceptable impact on one another in terms of overbearing. This would be by virtue of their proximity to one another and scale of the houses being proposed; any outlook from the rear windows of the proposed dwellings and the front windows of the approved dwelling would be totally compromised and would cause unacceptable detriment to the amenity of future occupiers. Furthermore, the perception to neighbours of the site would be as a continuous mass of built form resulting from the three dwellings. This would also unacceptably compromise their outlook and would represent an overbearing presence on them.
- 10.27. Considering the above, the proposal would be unacceptable in terms of neighbouring amenity and Policy H14.

iv. Occupier Amenity

- 10.28. Policy H15 of the Oxford Local Plan states that planning permission will only be granted for new dwellings that provide good quality living accommodation for the intended use. All proposals for new build market and affordable homes (across all tenures) must comply with the MHCLG's Technical Housing Standards – Nationally Described Space Standard Level 113.

- 10.29. The proposed dwellings meet the requirements of the relevant space standards and would provide high quality internal space to potential occupants in a layout which is considered acceptable.
- 10.30. Policy H16 of the Oxford Local Plan 2036 states that planning permission will only be granted for dwellings that have direct and convenient access to an area of private open space. H16 sets out the expectations for the size and quality of outdoor space across various types of dwellings.
- 10.31. The proposed outdoor space offered by the proposed scheme in isolation would also be sufficient to meet the policy requirements and provide future occupants with high quality outdoor amenity space.
- 10.32. However, when taking into account the cumulative impact that would result from the proposed development as well as the extant permission in the site, 19/028/17/FUL, planning officers consider there would be insufficient outdoor amenity to serve the proposed two dwellings, as much of the garden would be taken up by development. Officers also consider that the proposed outdoor amenity space would be unacceptably overlooked by the occupants of the approved dwelling to the rear of the site so which would mean that the proposed garden space would offer no real amenity value to occupiers of the proposed dwellings.
- 10.33. The proposal would therefore offer sufficient indoor amenity to future occupiers and accord with Policies H15 but would fail to offer adequate outdoor amenity and would fail to accord with Policy H16.

v. Archaeology

- 10.34. Policy DH4 of the Oxford Local Plan 2036 states that where archaeological deposits that are potentially significant to the historic environment of Oxford are known or suspected to exist anywhere in Oxford, planning applications should include sufficient information to define the character, significance and extent of such deposits so far as reasonably practical. Proposals that will lead to harm to the significance of non-designated archaeological remains or features will be resisted unless a clear and convincing justification through public benefit can be demonstrated to outweigh that harm.
- 10.35. Having consulted the Historic Environment Record, the Council concludes that, on present evidence, this development proposal would be unlikely to have significant archaeological implications
- 10.36. The proposal is therefore acceptable in terms of archaeology and Policy DH4.

vi. Protected Trees

- 10.37. Policy G7 of the Oxford Local Plan 20136 states that planning permission will not be granted where development would result in the loss of green infrastructure features such as hedgerows, trees or woodland, where this would have a significant adverse impact upon public amenity or ecological interest. It must be demonstrated that their retention is not feasible and that their loss will be mitigated. Planning permission will not be granted for

development resulting in the loss or deterioration of ancient woodland or ancient or veteran trees except in wholly exceptional circumstances.

- 10.38. It is noted that a recent committee decision, 19/02816/FUL, was made on the basis that the constraints of the protected trees surrounding the site meant that the intensification of the residential use of the site beyond a single dwelling would likely not be possible without having negative impacts on the longevity of the protected trees. Since this decision, further evidence, resulting from further investigation on the site, was submitted by the applicant and further advice was received from Council tree officers, who are technical experts on this subject. Tree officers have been satisfied that the submitted documents serve as sufficient evidence to demonstrate that the proposed development would have an acceptable impact in terms of the protected trees, in principle. However, further details would therefore be required to confirm the retained trees would be adequately considered during construction. These would have been secured by condition if planning permission was granted. The sensitivity of the site in both design and arboricultural terms also means that officers would need a landscaping plan to be submitted prior to the relevant works taking place.
- 10.39. Considering the above, the proposal is acceptable in terms of Policies G7 and G8 and would adequately preserve the protected trees, although conditions would have been needed to ensure the trees would have been protected from harm.

vii. Drainage

- 10.40. Policy RE4 states that all development proposals will be required to manage surface water through Sustainable Drainage Systems (SuDS) or techniques to limit run-off and reduce the existing rate of run-off on previously developed sites. Surface water runoff should be managed as close to its source as possible, in line with the drainage hierarchy outlined in the policy. Applicants must demonstrate that they have had regard to the SuDS Design and Evaluation Guide SPD/ TAN for minor development and Oxfordshire County Council guidance for major development.
- 10.41. The proposed development would not be at significant risk of flooding from any sources. However, in accordance with Policy RE4 of the Oxford Local Plan, all new developments should be drained via a sustainable drainage system. The drainage strategy should be in accordance with Oxford City Council SuDS Design and Evaluation Guide, Non-statutory technical standards for SuDS, and CIRIA C753 - the SuDS Manual. Insufficient evidence has been provided that would show this would be the case. However, these matters could have been dealt with by condition, as officers are satisfied the scheme could have accorded with the relevant requirements.
- 10.42. Subject to conditions the proposal could have been acceptable in terms of flooding and Policy RE4.

viii. Ecology

10.43. Policy G2 of Oxford Local Plan 2036 states that important species and habitats will be expected to be protected from harm, unless the harm can be appropriately mitigated. It also outlines that, where there is opportunity, it will be expected to enhance Oxford's biodiversity. This includes taking opportunities to include features beneficial to biodiversity within new developments throughout Oxford.

10.44. The proposal is unlikely to have an adverse impact on local biodiversity. However, in accordance with Policy G2, a condition would have been included in respect of site enhancements in order to ensure a net ecological enhancement has been achieved, had permission been granted.

10.45. Subject to conditions, the proposal would have with Policy G2 of the Oxford Local Plan and would be acceptable in terms of matters of ecology.

ix. Land Quality

10.46. Policy RE9 states that planning applications where proposals would be affected by contamination or where contamination may present a risk to the surrounding environment, must be accompanied by a report which fulfils the relevant criteria set out in the policy. Where mitigation measures are needed, these will be required as a condition of any planning permission.

10.47. The Council's records show that the site is not at significant risk of suffering from land contamination. Therefore no further measures are required.

10.48. The proposal is therefore acceptable in terms of land quality and Policy RE9.

x. Car Parking

10.49. Policy M3 of the Oxford Local Plan 2036 states that in Controlled Parking Zones or employer-linked housing areas where occupants do not have an operational need for a car where development is located within a 400m walk to frequent public transport services and within 800m walk to a local supermarket or equivalent facilities planning permission will only be granted for residential development that is car-free. In all other locations, M3 states that planning permission will only be granted where the relevant maximum standards set out in Appendix 7.3 are complied with.

10.50. The application site is within 400m of a well-served bus stop and is within a Controlled Parking Zone (CPZ). However the nearest supermarket is over 800m from the site. Therefore one bespoke car parking space is required for each dwelling. This has been proposed to be provided in the front garden of each dwelling and that there is sufficient space for vehicles to safely enter and exit the site. The proposal therefore accords with Policy M3. Planning officers are satisfied that there is insufficient room in the front garden to accommodate any additional cars and the new dwellings would have been excluded from obtaining car parking permits to ensure no additional cars are parked on the street

10.51. Policy M4 of the Oxford Local Plan 2036 requires electrical vehicle charging facilities to be provided to each new car parking space.

10.52. The requirements of Policy M4 are noted and could have been required by condition.

xi. Cycle Parking

10.53. Policy M5 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that complies with or exceeds the minimum bicycle parking provision as set out in Appendix 7.4. Bicycle parking should be, well designed and well-located, convenient, secure, covered (where possible enclosed) and provide level, unobstructed external access to the street. Bicycle parking should be designed to accommodate an appropriate amount of parking for the needs of disabled people, bicycle trailers and cargo bicycles, as well as facilities for electric charging infrastructure.

10.54. The proposed cycle parking would be covered, secure and allow for independent access to each cycle. There would be enough space for sufficient cycles in each. This conforms to the requirements of Policy M5.

10.55. The proposal is therefore acceptable in terms of Policy M5 and cycle parking.

xii. Sustainability

10.56. Policy RE1 of the Oxford Local Plan 2036 states that planning permission will only be granted where it can be demonstrated that sustainable design and construction principles, set out in RE1, have been incorporated. It is expected that 25% of energy will be on-site renewables; water consumption must also meet the requirements of Building Regulations Part G2. An Energy Statement will be submitted to demonstrate compliance with this policy for new-build residential developments (other than householder applications) and new-build non-residential schemes over 1,000m². The Energy Statement will include details as to how the policy will be complied with and monitored.

10.57. The submitted documentation is sufficient to demonstrate that the proposal accords with the general principle of sustainable design, as set out in Policy RE1. However, no calculations are provided which demonstrate compliance with the requirements of the policy in terms of energy efficiency. That being said, planning officers are satisfied that the proposed development can conform to the relevant requirements of RE1. The final calculations could have been provided by condition, prior to the commencement of works; these would have included calculations based on the Dwelling Emission Rate and the Target Emission Rate.

10.58. The proposal would have been acceptable in terms of sustainability and Policy RE1, subject to conditions had the recommendation been to approve.

xiii. Other Matters

10.59. Most of the concerns raised during the consultation period were addressed in the above sections, where they have not been, they are addressed in this section.

10.60. It is noted that concerns have been raised as to the legal requirements of the applicant to build any new dwelling to certain specifications, as outlined in the deeds to the land. This is not a planning matter and had not been considered as part of this application.

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 the erection two new dwellings on the land between 45 and 51 Hill Top Road. Without a legal agreement with the Council or unilateral undertaking being in place, to ensure that if this development were implemented, the extant permission would not be, the Council cannot reasonably prevent the implementation of the extant permission on the site for a single dwellinghouse (reference 19/02817/FUL). Both that extant permission and any permission resulting from this application could therefore be implemented which would lead to an unacceptable arrangement in planning terms on the application site. Such a situation would be of unacceptable design and offer occupants unacceptable amenity and would therefore not comply with Policies RE1, DH1, H14 or H16 of the Oxford Local Plan 2036 or paragraph 130 of the NPPF.

11.4. It is therefore recommended that the Committee resolve to refuse planning permission for the reason given at paragraph 1.1.2 of this report with delegated authority being given to the Head of Planning services to finalise the wording of that reason.

12. APPENDICES

- **Appendix 1 – Site location plan**
- **Appendix 2 – Committee Report for Land Between 45 and 51 Hill Top Road from the West Area Planning Committee in February 2021**

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.

This page is intentionally left blank