

## DEVELOPMENT CONTROL PANEL

19 May 2021

Item: 1

<b>Application No.:</b>	20/02462/FULL
<b>Location:</b>	Bellman Hanger Shurlock Row Reading RG10 0PL
<b>Proposal:</b>	Erection of 14 dwellings with associated parking and landscaping and the retention of the existing access road following the demolition of the existing buildings, warehouse, external storage areas and hardstanding.
<b>Applicant:</b>	Shanly Homes Limited
<b>Agent:</b>	Mr Kevin Scott
<b>Parish/Ward:</b>	Waltham St Lawrence Parish/Hurley And Walthams
<b>If you have a question about this report, please contact:</b> Susan Sharman on 01628 685320 or at <a href="mailto:susan.sharman@rbwm.gov.uk">susan.sharman@rbwm.gov.uk</a>	

### 1. SUMMARY

- 1.1 The proposal would have a greater impact on the openness of the Green Belt than the existing development. Accordingly, it is inappropriate development in the Green Belt. The applicant has not submitted any information on any other considerations that may clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm and therefore 'very special circumstances' do not exist to justify approving the application. In addition, by reason of its siting, layout, scale and design, the proposal represents overdevelopment of the site resulting in an urban appearance that is unsympathetic to, and would detract from, the open and rural character and appearance of the area
- 1.2 The proposed Coach House (Plot 4) has no private amenity space contrary to the adopted Borough Wide Design Guide.
- 1.3 No details in respect of mitigation for lighting, run off and noise pollution, associated with the development and following its construction, have been provided. In the absence of acceptable details, the proposal fails to demonstrate that it would not have a detrimental impact on protected and priority species, the adjacent Local Wildlife Site and Ancient Woodland,
- 1.4 The application site area is in excess of 0.5ha. No affordable housing is proposed and in the absence of a legal agreement to secure such housing, the proposal is contrary to Policy H3 of the Local Plan.

**It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 13 of this report):**

1.	<b>The proposal would have a greater impact on the openness of the Green Belt, in which it would be located, than the existing development on site. The applicant has failed to demonstrate that any other considerations would clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm, (as identified in the subsequent reasons), and therefore 'very special circumstances' do not exist to justify approving the application.</b>
2.	<b>The proposal, by reason of its siting, layout, scale and design, represents overdevelopment of the site resulting in an urban appearance that is unsympathetic to, and would detract from, the open and rural character and appearance of the area.</b>
3.	<b>The proposed Coach House (Plot 4) by reason of its poor design fails to provide a high standard of amenity for its future occupiers.</b>
4.	<b>In the absence of acceptable details in respect of mitigation for lighting, run off and noise pollution associated with the development, the proposal fails to demonstrate that it would not have a detrimental impact on protected and priority species and habitats.</b>

5.	<b>The application site area is in excess of 0.5 hectares. No affordable housing is proposed and in the absence of a legal agreement to secure such housing.</b>
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## **2. REASON FOR PANEL DETERMINATION**

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended; such decisions can only be made by the Panel.

## **3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 3.1 Bellman Hanger is a 1940s, 2600sqm, metal clad warehouse originally used for storage in connection with the nearby airfield at White Waltham. It is now used as a permanent storage facility. The hanger is centrally positioned within the 0.72 hectare site and measures 39m wide by 54m long, with a height ranging from 6.1m at its lowest point to 8.1m at its peak. There are a number of other small buildings and structures as well as outside storage to the sides, front and rear of the building. The site is bounded by mature trees to the north, east and south.
- 3.2 The application site is located on the east side of Shurlock Row. To the north, adjoining the site, is Crockford's Copse, a Local Wildlife Site and Ancient Woodland. To the east and south of the site are the land and buildings associated with the neighbouring farm, and to the west, on the opposite side of Shurlock Row, are open fields. The wider area around the site is predominantly open countryside with sporadic residential development.
- 3.3 The site is in the Green Belt and is in Flood Zone 1.

## **4. KEY CONSTRAINTS**

- 4.1 The main planning constraints are associated with the site's rural location. Being in the Green Belt, the proposal will need to demonstrate that it would not have a greater impact on the openness of the Green Belt than the existing development on site. The application is also required to demonstrate that it would not harm any protected species or their habitats.
- 4.2 On previous applications the site has been considered to be in Flood Zone 3, where there is a high probability of flooding. However, following re-modelling of potential flooding in the area, (undertaken by the applicant in liaison with the Environment Agency (EA)), the site is now confirmed (by the EA) as being in Flood Zone 1, (defined as having a low probability of flooding).

## **5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY**

- 5.1 The application proposes the erection of 14 dwellings with associated parking and landscaping and the retention of the existing access road, following demolition of the existing warehouse and other outbuildings/structures, removal of hardstanding and external storage areas.
- 5.2 The density of the proposed development is 19 dwellings per hectare.
- 5.3 A mix of dwellings is proposed comprising:
- 1 x 2 bedroom Coach House (Plot 4 - flat over garages)
  - 4 x 3 bedroom houses (Plots 2, 3, 5, 6)
  - 5 x 3 bedroom houses (with study space at first floor - Plots 7, 8, 10, 13 & 14)
  - 4 x 4 bedroom houses (Plots 1, 9, 11, 12)
- 5.4 With the exception of Plot 4, each dwelling would have an eaves height of approximately 5.2m and a ridge height ranging from approximately 7.9m to 9.5m.
- 5.5 The development would utilise the existing access off Shurlock Row and includes 41 on-site parking spaces (including 6 visitor spaces).
- 5.6 Planning History

Ref.	Description	Decision and Date
18/00724/CONDIT	Details required by condition 16 (contamination) of 14/03036.	Approved 15.06.2018.
17/03903/OUT	Outline application (access & layout) for construction of 18 dwellings with associated access, parking and turning.	Withdrawn 25.06.2020
17/03734/CONDIT	Details required for conditions 2, 3, 4, 11, 13 and 15 of 14/03036.	Approved 21.01.2018.
16/02861/OUT	Outline application, with the consideration of access and layout matters only, for 20 dwellings.	Withdrawn 25.05.2017
14/03036/FULL	Erection of 3 dwellings with associated access and landscaping following demolition of the existing buildings and hardstanding.	Approved 16.03.2015
14/00350/FULL	Erection of 4 dwellings with associated access and landscaping following demolition of the existing buildings and hardstanding.	Refused 09.05.2014
12/01734/CLU	Certificate of Lawfulness to determine whether an existing external storage area is lawful	Approved 20.08.2012
12/00418/CLU	Certificate of Lawfulness to determine whether an existing external storage area is lawful.	Refused 11.04.2012
99/34780/VAR	Variation of Condition No. 1 of 429330 to allow permanent use of premises for storage purposes.	Approved 31.05.2000
98/33395/FULL	Demolition of existing warehouse and replacement with three detached houses and associated garages.	Withdrawn 16.06.1999
95/01606/TEMP	Storage use (renewal of permission 423475)	Approved 03.11.1995
95/01605/FULL	Demolition of existing warehouse and erection of 4 x five bedroom houses and associated parking.	Refused 22.08.1997
95/01604/FULL	Demolition of existing warehouse building and yard and construction of three detached houses and detached double garages and access road.	Refused 20.03.1995
94/01499/FULL	Demolition of existing warehouse building and yard and construction of three detached houses and triple garages and access road.	Refused 30.08.1994
92/01315/OUT	Replacement of storage/ warehouse building with 5 detached houses	Refused 22.02.1993
92/01314/OUT	Erect five detached houses and double garages. Demolition of existing building.	Withdrawn 08.04.1992
92/01312/FULL	Permanent consent to utilise B8 building for storage purposes.	Refused 29.07.1992

- 5.7 The submitted design and access statement states that application 14/03036 has commenced and is therefore extant. The applicant sought clarification from the Council that investigatory works associated with the contaminated land condition would not amount to commencement of the development, which was confirmed. However, there are no records to verify that the development approved by the application (for 3 dwellings) has commenced and remains extant.
- 5.8 It is also noted that the application submission relies on the panel report for application 17/03903/OUT, however this was for a materially different proposal and the application was withdrawn before a formal determination by the Panel was made.

## 6. DEVELOPMENT PLAN

### RBWM Local Plan, Adopted July 1999 (with Alterations adopted 2003)

6.1 The main strategic planning policies applying to the site are:

Issue	Adopted Local Plan Policy
Green Belt	GB1, GB2(A), GB3
Design in keeping with character and appearance of area	DG1, H10
Highways	P4,T5
Trees	N6
Housing	H3, H11

These policies can be found at

[https://www3.rbwm.gov.uk/downloads/download/154/local\\_plan\\_documents\\_and\\_appendices](https://www3.rbwm.gov.uk/downloads/download/154/local_plan_documents_and_appendices)

### Adopted Hurley and the Waltham's Neighbourhood Plan, 2015-2030. Adopted December 2017.

Issue	Neighbourhood Plan Policy
Sustainable development	Env 1
Climate change, flood and water management	Env 2
Quality design	Gen 2
Accessibility and highway safety	T1

## 7. Material Planning Policy Considerations

### 7.1 National Planning Policy Framework Sections (NPPF) (2019)

Section 2 – Achieving sustainable development

Section 4- Decision-making

Section 5 – Delivering a sufficient supply of homes

Section 11 – Making effective use of land

Section 12- Achieving well-designed places

Section 13- Protecting Green Belt land

Section 14- Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

### 7.2 Borough Local Plan: Submission Version (2017) and Proposed Changes (2019)

Issue	Local Plan Policy Submission version	Local Plan Policy Proposed changes
Sustainability and placemaking	SP2	QP1
Character and design of new development	SP3	QP3
Development in the Green Belt	SP5	QP5
Housing mix and types	HO2	HO2
Affordable housing	HO3	HO3
Housing density	HO5	Deleted
Managing flood risk and waterways	NR1	NR1
Trees, woodlands and hedgerows	NR2	NR3
Nature conservation	NR3	NR2

7.3 Paragraph 48 of the NPPF sets out that decision-makers may give weight to relevant policies in emerging plans according to:

*“a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*

*b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and  
c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*

- 7.4 The Borough Local Plan Submission Document was published in June 2017. Public consultation ran from 30 June to 27 September 2017. The plan and its supporting documents, including all representations received, was submitted to the Secretary of State for independent examination in January 2018. In December 2018, the examination process was paused to enable the Council to undertake additional work to address soundness issues raised by the Inspector. Following completion of that work, in October 2019 the Council approved a series of Proposed Changes to the BLPSV. Public consultation ran from 1 November to 15 December 2019. All representations received were reviewed by the Council before the Proposed Changes were submitted to the Inspector. The Examination was resumed in late 2020 and the Inspector’s post hearings advice letter was received in March 2021. The next stage will be for main modifications to be carried out and consulted upon.
- 7.5 The BLPSV together with the Proposed Changes are material considerations for decision-making. The weight to be given to each of the emerging policies and allocations will depend on an assessment against the criteria set out in paragraph 48 of the NPPF. This assessment is set out in detail, where relevant, in Section 9 of this report.

These documents can be found at:

<https://www.rbwm.gov.uk/home/planning/planning-policy/emerging-plans-and-policies>

## 7.6 Supplementary Planning Documents

- RBWM Interpretation of Policy F1
- RBWM Borough Wide Design Guide

### Other Local Strategies or Publications

7.7 Other Strategies or publications material to the proposal are:

- RBWM Parking Strategy
- Affordable Housing Planning Guidance

More information on these documents can be found at:

<https://www.rbwm.gov.uk/home/planning/planning-policy/planning-guidance>

## 8. CONSULTATIONS CARRIED OUT

### Comments from interested parties

28 occupiers were notified directly of the application.

The application was advertised in the Local Press on 8<sup>th</sup> October 2020

1 letter was received supporting the application, summarised as:

Comment		Where in the report this is considered
1.	This area is in dire need of affordable housing.	9.39
2.	Bellman Hanger is a blight on this village. New homes are a clear progression in the village.	Noted.
3.	Will create jobs and lead to more residents using local facilities such as pubs.	Noted.

66 letters were received objecting to the application, summarised as:

Comment	Where in the report this is considered
1. There is nothing in this application that benefits the village. No affordable housing. What about young people born and bred in the village. Hanger should be replaced with flats and make some affordable.	9.39
2. Proposed houses are too close to the neighbouring farm and will result in complaints of smells/odours, noise and flies particularly in the Summer. Public nuisance. Such complaints could affect the farmer's livelihood.	9.13-9.14
3. 14 new homes will lead to extra noise and disturbance in the area.	9.8-9.10, 9.40
4. The road carries a lot of fast moving traffic. Additional traffic on an already busy and dangerous road will affect highway safety. There are no pavements – dangerous for pedestrians. Local roads cannot sustain additional traffic. Dangerous to cyclists Bellman Hanger was used as a storage facility with strict daily limits on movements. The proposed homes will amount to high impact movement. The road outside is too narrow, fast and dangerous. The traffic report is incorrect and disputed.	9.15 – 9.21
5. The site is totally unsuitable for this large-scale development. Cramped and remote location. This is overdevelopment in a rural area. The scale of the development is out of character with its immediate surroundings. Too many houses.	9.8 – 9.10
6. Waltham St. Lawrence has limited local facilities – no jobs, no shops, no station, not enough school places. Poor bus service. Car use by the occupants of the development will be essential.	9.41
7. The houses bordering the tree-lined southern boundary could have restricted sunlight.	9.12
Half of the buildings are outside the footprint of the hanger, conflicting with openness and confirming overdevelopment.	9.2 – 9.7
8. Approval has already been given for 3 houses and this is correct. An additional 14 houses would result in a dramatic change to the local environment.	9.8 – 9.10
9. Inadequate sightlines from the access on a very fast stretch of road.	9.16 – 9.18
10. The site is outside the recognised settlement areas.	9.2 – 9.7
11. Inadequate recreational open space.	9.11 – 9.12
12. The clearance of the site will disrupt existing flora and fauna and wildlife.	9.22 – 9.35
13. The development will put additional pressure on an already overloaded sewerage disposal system.	9.42
14. The site is next to an Ancient Woodland.	9.23-9.27
15. Previous application 14/03036 for 4 dwellings concluded that this was excessive and was refused. This sets a precedent.	Each application is treated on its own merits.
16. Conflicts with Policy GB2 as it will have a greater impact on the openness of the Green Belt by reason of the scale of the development and lead to a material increase in the level of activity. There are no 'very special circumstances'.	9.2 – 9.7
17. Application 426529 for 3 houses was refused on the grounds of cramped and intrusive form of development, with urban appearance, harmful to the open and rural character of the area. This still applies and will conflict with policy SP3.	Noted. 9.2 – 9.7

18.	<p>Adverse impact on neighbouring farm – additional noise, dogs barking, light pollution, traffic movements will harm the wellbeing of cattle and the viability of the farm.</p> <p>Long Meadow Farm has been home to a Sarabande Hereford pedigree herd for many years. The cattle are susceptible to noise and light changes which could disrupt breeding patterns.</p> <p>There is a planning stipulation that a farm cannot build within 200m of a residential building line – how does this not apply the other way round?</p> <p>No buffer has been incorporated between the development and the farm. The farm and livestock have been ignored.</p> <p>The development will 'light-up' the area and disrupt livestock.</p>	9.14
19.	Increase light pollution – will change the nature of the village.	9.8 – 9.10
20.	Loss of historical significance of the hanger for its use during World War 2.	The hanger is not listed/protected.
21.	Loss of trees. The applicant has already removed a number of trees from the site and more will be lost as the development is too close.	9.36
22.	The road is subject to flooding due to insufficient mains drainage.	9.37, 9.42
23.	Foul and surface water drainage is a major problem in this part of Shurlock Row. It is not fit for purpose, never mind adding 14 houses.	9.42
24.	The registered land owner of Long meadow, adjacent to Bellman hanger, advises that they own the land at the front that runs up to and includes the bank and wooded hedge, adjacent to the roadside ditch. The proposed visibility splays would cross their land. Permission will not be given to the applicant to use or clear any of their land.	9.16 – 9.18
25.	Concerns regarding fire risks due to the proximity of the development to a gas pipeline.	Matter for gas supplier (Cadent Gas)
26.	The drainage strategy is not based on the latest modelling from the Environment Agency.	9.37 – 9.38
27.	Both Waltham St. Lawrence and Shurlock Row villages and surroundings areas have no street lighting at all, and the existing Bellman lighting consists of one working security light that rarely activates, meaning the site is fully dark 100% of the time. Excessive and tall lights are not in any way in keeping with the area.	9.8 – 9.10
28.	The proposed 5m high lighting has the potential to disturb bats and wildlife as well as livestock in the neighbouring working farm.	9.28 – 9.29

29.	<p>Waltham St. Lawrence Preservation Society: Our Parish has limited local facilities, no work, no shops, no station, not enough school places and no pavements or speed limits, only a commuter rat-run with inadequate sightlines. Car use is essential. Houses bordering the tree-lined southern boundary could have restricted sunlight, with likely farm odour and noise disturbance.</p> <p>This is an unsuitable location both cramped and remote outside recognised settlements for a large housing estate. Half of the buildings are outside the footprint of the hanger conflicting with openness and confirming over-development. The proposed buildings clearly extend beyond the hanger building. Hardstanding should not be construed as buildings. Very special circumstances are relevant in this case. The previous application for 3 houses was allowed but restricted to within the curtilage of the hanger.</p> <p>Vehicle movements are restricted (99/34780/VAR) and HGVs are not allowed to enter the site. This is important as it protects the Green belt and is relevant today. The number of vehicle movements would see a significant increase in traffic entering and leaving the site. The submitted traffic survey is unsubstantiated. The Highway's view is not acceptable with visibility splays measured under half the recommended values.</p> <p>The visibility splays and speeds are relevant because of the curvature of the road because of a blind bend to the south side. The applicant cleared the highway and vegetation to the north without authorisation and prior to any planning decision. This has now been replaced by the Parish Council with prior permission. It is questionable whether the Highways department has visited the site and measured visibility splays.</p> <p>Ecology report raises concerns that the survey for Great Crested Newts located ditch 2 in the wrong position and is closer to the development than stated. Further bat surveys are also justified. The proposed lighting scheme is unacceptable in such a rural area where there is no street lighting in this Parish. This would cause widespread light pollution and adversely affect wildlife and ancient woodland, and pedigree cattle. Would affect character and local area and is more appropriate for an urban environment.</p> <p>The suggested fencing which allows a gap for wildlife will result in pets passing through into the Ancient Woodland</p>	9.2 – 9.42
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In addition to the letters of objection, a petition has been submitted which states, "Stop Inappropriate development of Bellman Hanger. The application is excessive and inappropriate. It will have a greater impact on the openness of the Green Belt due to the scale of development and material increase in level of activity. This application should NOT be approved." There are 273 signatures on the petition.

**Consultee responses**  
Summary of comments

Consultee	Comment	Where in the report this is considered
RBWM Ecologist	Consultation response on requested additional information awaited. Details to be provided in the Panel update report.	9.22 – 9.35
Highway Authority	No consultation response received to date. Details to be provided in the Panel update report.	9.15 – 9.21

Environment Agency	Objects and recommends refusal on basis that site is within Flood Zone 3 and lack of a Flood Risk Assessment	9.37
Lead Local Flood Authority	No objection subject to surface water drainage strategy condition.	9.38
RBWM Trees	No consultation response received to date. Details to be provided in the Panel update report.	9.36
Environmental Protection	No objection subject to contaminated land condition.	9.40
Thames Water	No objection. Advises that with regard to waste water network and sewerage treatment works infrastructure capacity, it would not have any objection to the planning application, based on the information provided.	9.42

### Other Groups

Group	Comment	Where in the report this is considered
Parish Council	<p>Objects.</p> <p>It is hard to find a site less suitable for such a concentrated residential development in the Parish.</p> <p>Building redevelopment should be restricted to replacing the footprint of the existing site buildings (not hardstanding or moveable storage). See reasons for refusal on application 14/00350.</p> <p>More housing along the southern boundary with nuisance impact on occupants and cattle rearing farm.</p> <p>Increased lighting will impact rural green belt. Will have an urbanising effect on rural character.</p> <p>Potential harm to nearby cattle from dogs and increased noise.</p> <p>Site is located on an apex of a bend in the road. The concealed access leading to an unrestricted commuter route with bends, no pavements and inadequate sightlines is a hazard to pedestrians and cyclists.</p> <p>The site is outside the recognised settlements with limited local facilities. Will require extensive car use by occupants.</p> <p>Sewerage disposal is a real concern.</p> <p>Deterioration of the nearby Ancient Woodland.</p> <p>The latest application amounts to over-development and would be out of character with its immediate surroundings.</p>	9.2 – 9.42

## 9. EXPLANATION OF RECOMMENDATION

### 9.1 The key issues for consideration are:

- i The principle of development – whether the proposal is appropriate development in the Green Belt;

- ii Impact on the character and appearance of the area;
- iii Impact on the amenities of future occupiers of the development and neighbours;
- iv Highway safety and parking provision;
- v Ecology;
- vi Trees;
- vii Flood risk;
- viii Affordable housing;
- ix Other considerations; and
- x Conclusion.

### **The principle of development – whether the proposal is appropriate development in the Green Belt**

- 9.2 The application site is located within the Green Belt and the NPPF (2019) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 143). Paragraph 144 further states that “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”
- 9.3 Paragraph 145 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, with some exceptions. These include point g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 9.4 In this case, no affordable housing is proposed, however the site, being occupied by a warehouse and other smaller buildings/structures together with external storage areas, does comprise previously development land.
- 9.5 The submitted Design and Access Statement explains that the layout has been carefully considered with regard to the location of the site within the Green Belt and the need for the development to respect openness. Supporting information shows that the proposed development would lead to an increase in green space across the site, while also reducing the amount of hardstanding and built footprint. In reference to Figure 9 of the submitted Planning Statement, the applicant contends that this demonstrates a substantial reduction in the overall built form of the site and demonstrates that the proposed scheme will not have a greater impact on the openness of the Green Belt.
- 9.6 In Green Belt policy terms ‘openness’ is essentially the absence of built development with an assessment of openness based on its spatial impact and/or visual impact. Although referred to by the applicant as built form, the existing areas of hardstanding and built footprint at the site are ground level measurements which have little or no impact on the openness of the Green Belt. In this case, the proposal involves 7 of the 14 dwellings being positioned outside the footprint of the existing warehouse on existing open areas of the site, resulting in both a spatial and visual impact on openness. As a result, the proposal would have a greater impact on the openness of the Green Belt than the existing development.

- 9.7 Accordingly, the proposal is inappropriate development in the Green Belt. The applicant has not submitted any information on any other considerations that may clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm, (as referred to further in this report), and therefore 'very special circumstances' do not exist to justify approving the application. For this reason, the proposal is contrary to national and local development plan policies.

### **Impact on the character and appearance of the area**

- 9.8 The area surrounding the site is distinctly rural in character and appearance. Open fields lie on both sides of Shurlock Row behind established hedgerows and mature trees. The road has no street lighting or pavements and is only sporadically interspersed by medium to large residential properties set back from the highway within substantial plots.
- 9.9 The proposal involves the siting of houses across the majority of the width and length of the site. The development would be sited closer to the highway than the existing warehouse and the dwellings would be positioned in close proximity to each other on relatively small plots compared to the prevailing character. Taken together with the 9no. x 5m high lighting columns proposed, the development would have a noticeably urban appearance.
- 9.10 Accordingly, by reason of its siting, layout, scale and design, the proposal represents overdevelopment of the site resulting in an urban appearance that is unsympathetic to, and would detract from, the open and rural character and appearance of the area. For this reason, the proposal is contrary to national and local development plan policies.

### **Impact on the amenities of future occupiers of the development and neighbours**

- 9.11 The separation distances between the proposed dwellings complies with the minimum requirements set out in the Borough Wide Design Guide such that, with appropriate planning conditions, none of the future occupiers would be adversely affected by loss of privacy. Likewise, due to sufficient separation distances, none of the proposed dwellings would have an overbearing impact when viewed from occupiers living within the development.
- 9.12 The houses sited towards the southern boundary may have restricted levels of sunlight, particularly during the winter months, due to mature trees along this boundary. However all of the houses across the site have adequate rear garden depths and areas, compliant with the Borough Wide Design Guide, which will ensure the houses are served with adequate levels of daylight, as well as sufficient private amenity space. The exception to this is the Coach House (Plot 4) which, although would have sufficient daylight, has no private amenity space contrary to the Borough Wide Design Guide.
- 9.13 Due to the separation distances involved and mature boundary trees, none of the neighbour's amenities will be harmed in terms of loss of privacy, loss of daylight or sunlight or from the proposed development appearing overbearing.
- 9.14 A number of representations received have expressed concerns about the potential adverse impact of the development on the neighbouring farm to the south from additional noise, dogs barking, light pollution and traffic movements, and the potential harm this could cause to the wellbeing of livestock and ultimately the viability of the farm. However, in the absence of evidence that demonstrates the development would likely lead to actual harm to animals and/or affect the farm's viability it would be difficult for the Council's to justify and defend such an objection. With regard to potential complaints from occupiers of the development in relation to noise and odours coming from the farm, these would have to be substantiated with evidence that the levels and frequency of noise and/or odours amount to being a public nuisance offence requiring legal remedy, a situation which in this case is considered highly unlikely to occur. In addition, the applicant has submitted an 'Odour Assessment Report', which concludes that overall odour effects at the site are not considered significant such that they would represent a constraint to the development. Environmental Protection has not raised any objections to the proposal in terms of potential noise impact either from or to the development.

### **Highway safety and parking provision**

- 9.15 Shurlock Row connects the B3024 Broadmoor Road to the B3018 The Straight Mile. Within the vicinity of the application site Shurlock Row is subject to the national speed limit (60mph), however approximately 70m north of the site access the road has a 40mph speed limit.
- 9.16 The site is located to the east of Shurlock Row and is served by an existing vehicular access that offers visibility splays of 2.4m by 100m to the right (north), by 75m to the left. The Borough's Highway Design Guide sets a visibility splay of 2.4m by 215m in both directions, (based on advice given in the Design Manual for Roads and Bridges (DMRB) and applicable to truck roads). The restricted visibility splays are primarily due to the horizontal alignment of the highway and the position of the site on the 'inside' of the bend.
- 9.17 The development would be served by the existing access and could achieve (according to the submitted Transport Statement), with the trimming or removal of boundary hedging or trees on the public highway, visibility splays of 2.4m x 107m to the right (north), by 91m to the left. These visibility splays have been accepted by the Highway Authority (under the previously withdrawn application 17/03903/OUT) on the basis that Shurlock Row is not a trunk road and therefore the DMRB is not relevant. The Highway Authority advised that advice contained in Manual for Streets (MfS) 2, published in 2010, is the most applicable to the access considerations for the site. Third party representations made under application 17/03903, (including A Transport and Highway Review plus Technical Note on behalf of Waltham St Lawrence Parish Council), submitted that the guidelines in MfS were not appropriate, however the Highway Authority maintained its advice in this respect.
- 9.18 The Highway Authority made clear that the accepted visibility splays (suggested by the applicant as 2.4m by 107m to the right and by 91m to the left), could only be achieved by the trimming back and/or removal of the boundary vegetation and trees on the public highway, and the applicant has submitted a plan (drawing number 14-T031\_11 Rev G) to demonstrate this, which would need to be conditioned to ensure implementation. It is noted that the adjoining land owner has advised that the proposed visibility splay to the south would cross land in their ownership. However an assessment of this using the relevant Highway Authority's adopted highway map appears to show that the required visibility splay to the south could be achieved over public highway land. Any dispute over the ownership of the land in question would be a separate matter between the relevant parties, rather than a planning matter, but ultimately if the required visibility splays cannot be achieved with the relevant land owner's permission any planning permission granted could not be implemented.
- 9.19 The submitted Transport Assessment reports that the development has the potential to generate 7 two-way trips in the AM peak, 6 two-way trips in the PM peak and 67 daily two-way trips. Based on a previous condition (imposed on application 99/34780), the development would lead to an increase in vehicular activity from the premises. However, it should be stressed that the condition referred to restricting traffic movements at the site was imposed to protect the character of the Green Belt. Given that redevelopment proposals on previously developed land are acceptable in principle, as set out in the NPPF and provided they do not have a greater impact on the openness of the Green Belt than the existing development, such a condition would not now be appropriate. The relevant issue for consideration is the impact traffic generated by the proposal would have on the local highway network.
- 9.20 Paragraph 109 of the NPPF states, "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Based on the submitted estimated trips to and from the site, the proposal would not lead to a severe impact on the road network.
- 9.21 With regard to other highway related matters, the proposal provides 41 on-site parking spaces which complies with the Council's adopted parking standards, and the applicant has sufficiently demonstrated (with swept path analysis drawings contained in Appendix 8 of the Transport Statement) that a refuse lorry could enter, turn and exit the site in a forward gear. Subject to planning conditions to ensure the development would be implemented in accordance with the submitted drawings, the proposal raises no highway safety issues.

## Ecology

- 9.22 The application site comprises a storage hanger and warehouses where it is proposed to demolish the buildings and construct 14 dwellings with associated parking and landscaping. The site contains hard standing, trees, a ditch and a pond, and is surrounded by habitat of high suitability for use by protected wildlife. It is neighboured by an area of Ancient Woodland and Crockford's Copse Local Wildlife Site (LWS) to the north, grassland fields to the east and west, farm and residential buildings to the south and Twyford Brook 120m northeast. The Council's ecologist's comments below are in response to updated ecological information provided by the applicants ecologist during the course of the application and following previous advice relating to ecology.

### Ancient Woodland, Local Wildlife Sites and Priority Habitat

- 9.23 The site is adjacent to an area of Ancient Woodland and Crockford's Copse Local Wildlife Site (LWS) to the north. Ancient Woodland is an irreplaceable habitat of significant wildlife value. The woodland is also likely to fit the description of "Lowland Mixed Deciduous Woodland" which is listed as a habitat of principal importance under Section 41 of the NERC Act 2006, i.e. it is a "Priority Habitat" as per the NPPF.
- 9.24 The Council's ecologist made comments during a previous planning application (17/03903) regarding the direct and indirect affect that the proposed new development could have on the ancient woodland/ LWS to the north. Natural England have subsequently reviewed the Ancient Woodland status of this area and have concluded that the part of the woodland closest to the proposed development does not qualify as Ancient. Therefore the minimum buffer of 15m (in line with Natural England's guidelines) will now be able to be provided between the development and ancient woodland and the applicant has stated that this will comprise of semi natural habitat, of native species which will be inaccessible to the public.
- 9.25 However, the development is still immediately adjacent to the LWS and priority woodland habitat. Development should not adversely affect LWSs – which can be defined as sites of local importance – as per emerging Policy NR3 below:

*"Either individually or in combination with other developments, which are likely to have a detrimental impact on sites of local importance, or compromise the implementation of the national, regional, county and local biodiversity actions plans, will not be permitted unless it can be demonstrated that the benefits clearly outweigh the need to safeguard the nature conservation value of the site"*

In addition, emerging policy NR3 states:

*"Development proposals [...] Will avoid impacts on habitats and species of principal importance, such as those listed under Section 41 of the NERC Act 2006"*

- 9.26 Although the applicant's ecologist has stated that "a double hoarding fence will be installed between the development and woodland to mitigate for increased lighting, runoff and recreational pressure, external lighting will be turned off at night during construction and no construction materials will be stored within the buffer area", it seems the only mitigation for lighting, run off, noise pollution following development is the hoarding and no further information has been provided as previously requested.
- 9.27 Further comments from the applicant's ecologist have been provided as part of this application with regards to the LWS and priority habitat. They have stated "The requirements for further details in relation to ground and surface water run off is accepted, but it would be expected that this would be provided as part of a Construction Environmental Management Plan (CEMP), which would be standard practice to form part of a planning condition". However, given the adjacent site qualifies as a LWS, priority habitat and the majority is ancient woodland, and that there are a series of ditches running adjacent and within the woodland, it is recommended that this information is provided prior to the determination of the application in order for the LPA to ensure the protection of the woodland (which is a LWS and priority habitat) during and following construction. The pollutants could have a detrimental impact on the woodland flora and fauna and ways in which this will be mitigated will be required (as requested in previous consultations).

## Bats

- 9.28 The boundary features and the woodland containing the substation provide habitat to support commuting and foraging bats. In addition, the new buffer area will likely contain suitable habitat for bats and other wildlife. There is likely to be increased external lighting at the site given the proposals for residential dwellings. There are no details of how light pollution will be minimised on site in order to reduce the impact of lighting on the ecologically sensitive habitats including the boundaries and woodland other than the hoarding fence.
- 9.29 The applicant's ecologist has provided further comment with regard to the issue of lighting and bats. The report states "*The development layout considers the proximity of the adjacent woodland, and has therefore provided a buffer between any built development and the woodland. The proposed access road in the north of the site will be unadopted, thus avoiding the need for column lighting. Therefore, it is considered that the requirement for a lighting design strategy for bats can be secured by condition, and is not necessary prior to determination*". However, specific details of the lighting have not been provided and therefore the LPA cannot ensure that external lighting will not affect the woodland without these details. It is acknowledged that there will be a buffer between the development and woodland, however, as details of lighting have not been provided, it is not clear as to the light spillage, not only on the woodland, but the new buffer area, which will likely be used by bats as well as other nocturnal wildlife. Therefore, as stated previously, details of the lighting should include specifications of external lights, a contour map showing the site and surrounding habitat and the light spillage across these areas and ways in which light spillage will be reduced during and following development. This should be provided prior to the determination of this application in order for the local planning authority to ensure that internal and external lighting will not affect bats (and other protected and priority species), which are a material consideration in the planning process.

## Great crested newts

- 9.30 During consultation for the previous planning application, the Council's ecologist requested further survey and information with regards to great crested newts (GCN) as there were ponds within 500m of the proposed development that could support GCN and the only pond which was surveyed was the on-site pond. The applicant's ecologist has mapped a number of ponds and ditches within 500m of the site. The ecology report states that the majority of these are separated from the site by significant barriers such as roads and therefore no further survey was been undertaken. One pond was recorded within 100m of the site but access was denied for the survey and therefore no further work has been undertaken. There were several ditches and a pond within the woodland to the north of the site which were recorded as having the potential to support GCN and therefore a further survey was undertaken.
- 9.31 Environmental DNA (eDNA) surveys of the ditches and pond within the woodland were undertaken and one ditch was recorded as being positive for GCN DNA, indicating GCN are present within ditch 2. The applicant's ecologist stated that as the ditch was 125m away from the proposed development and having undertaken Natural England's Rapid Risk Assessment for GCN, that an offense was highly unlikely (Ethos, September 2020). However, the landowner of the woodland commissioned a second ecology survey (John Wenman, 2020), which stated that the ditch with positive GCN DNA was only 60m from the development site and would provide an amber offence with regards to GCN and would therefore require further survey and mitigation as part of this application. Given the discrepancy, the Council's ecologist undertook a site visit to measure the distance from the positive GCN DNA sample within ditch 2 and the development site (November 2020). The measurement was approximate given the density of the woodland; however, the distance from ditch 2 to the edge of the ditch adjacent to the development was measured to be 70m. As the development extends past the ditch, the distance from the edge of the development is likely to be between 80 to 90m away from the positive DNA record. The Council's ecologist undertook Natural England's Rapid Risk Assessment based on this measurement and a development of this size, concluding a loss of potential GCN terrestrial habitat (0.27ha, according to the applicant's ecologist) would be caused, resulting in an amber offence under the Rapid Risk Assessment. However, the applicant's ecologist contacted the agency who undertook the eDNA survey of the ditches (ADAS) and they have provided additional information regarding the GCN

results. Given the result, they have concluded that there is likely to be a very small population of GCN within the woodland and that, because the ditches from the positive result and the proposed development site were dry at the time of sampling, it is unlikely that there is a breeding population within the adjacent woodland. Given that the proposed application does not contain optimal habitat for GCN and that the applicants ecologist has provided a GCN method statement within their updated survey report in 2020, it is unlikely that the favourable conservation status of GCN will be affected by the proposed development as long as the recommended mitigation provided within the ecology reports are conditioned as part of this application.

### Reptiles

- 9.32 The site was recorded as offering moderate value habitat for reptiles (the scrub and grassland areas). All species of common reptile are protected from killing and injury under the Wildlife and Countryside Act, 1981 (as amended). The applicant's ecologist have now undertaken reptile surveys. Although the surveys have not followed Natural England's best practice guidelines with regards to timings (they were undertaken in October), the environmental conditions were appropriate for the survey and therefore it is unlikely to have had a significant limitation to the survey. No reptiles were recorded during the surveys and the ecologists have concluded that reptiles are likely absent from the site. The ecology report provides a working method statement that provides details of precautionary methods of clearance of the site and includes a pre commencement survey, removal of potential refuges by hand, and cutting of vegetation to ensure it is kept short and not suitable for reptiles. It is recommended that this method statement is secured by a suitable planning condition.

### Riparian mammals

- 9.33 Surveys for otter and water vole were undertaken within all the ponds and ditches within the woodland and site. No evidence of either species was recorded and therefore the applicant's ecologist has concluded that neither otter or water vole are using the site or woodland and that the development proposals will not have a significant adverse impact on riparian mammals.

### Biodiversity enhancements

- 9.34 Paragraph 175 of the NPPF states that "opportunities to incorporate biodiversity improvements in and around developments should be encouraged". The applicant's ecologist has provided a Biodiversity Net Gain (BNG) report and states that the site will provide a 37% net gain following development. The enhancements should include but not be limited to, the provision of a replacement pond, appropriate management of the ecological buffer along the woodland edge to allow the growth of tussocky/longer grass and scrub habitats (woodland edge habitats are often the most important for wildlife), native hedge and tree planting, installation of bird and bat boxes and construction of hibernacula. Details of such enhancements, including the locations, specifications and management prescriptions, should be included within a Landscape and Ecological Management Plan (LEMP), which can be secured via a planning condition once the above issues have been resolved.
- 9.35 Following receipt of the Council's ecologist's comments (as outlined above), the applicant has submitted additional information which is the subject of another consultation. The Council's ecologist's advice in respect of the additional information will be provided in the Panel update report.

### **Trees**

- 9.36 At the time of writing, the tree officer's consultation response has not been received. Any comments received prior to the Panel meeting will be provided in an update report for the application. Notwithstanding this, the tree officer's consultation response on the previous application (17/03903), related specifically to the impact of the proposed development on the neighbouring Ancient Woodland and the need for a 15m buffer between the two. As set out in 9.23 above, Natural England has reviewed the Ancient Woodland status of this area since the previous application and determined that the part of the woodland closest to the proposed development

does not qualify as ancient. Accordingly, the minimum buffer of 15m (in line with Natural England's guidelines) can now be achieved between the development and Ancient Woodland.

### **Flood risk**

- 9.37 It is noted that the Environment Agency (EA) has objected to the current proposal on the grounds that the application site is within Flood Zone 3, (defined as having a high probability of flooding), and that a Flood Risk Assessment has not been submitted with the application. This is contrary to its advice, dated 2<sup>nd</sup> November 2018, provided for application 17/03903, that confirms that the site is classified as Flood Zone 1 (defined as having a low probability of flooding) for planning purposes and that it has no objections to the proposed development, (in that case 18 dwellings). In its current consultation response, the EA refers to the flood risk modelling undertaken by the applicant in relation to the previous application stating that it is considered satisfactory and fit for purpose, and acknowledges that its own flood risk maps for planning have not been updated to reflect this. In light of this, it would be unreasonable to refuse the current application on the grounds of risk from fluvial flooding.
- 9.38 With regard to potential risk from surface water flooding, the Lead Local Flood Authority has raised no objections to the scheme, subject to a pre-commencement condition being imposed with any permission granted, that requires full details of the proposed surface water drainage scheme to be submitted and approved by the Local Planning Authority.

### **Affordable housing**

- 9.39 Policy H3 of the Local Plan states that the Council will seek to achieve that a proportion of the total capacity of suitable residential schemes be developed in the form of affordable housing, and that suitable sites will include sites of 0.5 hectares or over or schemes proposing 15 or more net additional dwellings. Although the current proposal is for less than 15 dwellings, the application site is 0.72 hectares and therefore a proportion of the scheme should be affordable housing. No affordable housing is proposed by the application and in the absence of a legal agreement to secure such housing, the proposal is contrary to Policy H3 of the Local Plan.

### **Other considerations**

- 9.40 Given the current and previous use of the site, Environmental Protection has recommended that any permission granted should include a condition in respect of potential contaminated land. This would be a standard condition that requires an initial investigation and risk assessment of the site, and submission and approval of remediation measures if necessary. The condition is reasonable and necessary to ensure that risks from land contamination to the future users of the land and the neighbouring land are minimised.
- 9.41 A number of representations received have referred to the site being unsustainable given the lack of pavement outside the site along the highway to facilitate safe walking, together with the lack of services and facilities within the local village. Although the NPPF promotes sustainable development which includes encouraging modes of transport other than the car, it also promotes the effective re-use/redevelopment of previously developed land, such as the application site. The point raised by objectors is recognised but given the principle of the proposal is acceptable, (subject to there being no greater impact on the openness of the Green Belt than the existing development), it would be difficult to substantiate an objection on these grounds.
- 9.42 A number of representations have referred to existing problems in the area with sewerage disposal and that the additional dwellings would make this situation worse. However, this matter is not a planning issue but the responsibility of Thames Water, (see Section 8 Consultee responses).

### **Housing Land Supply**

- 9.43 Paragraphs 10 and 11 of the NPPF set out that there will be a presumption in favour of Sustainable Development. The latter paragraph states that:

*For decision-taking this means: approving development proposals that accord 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:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

9.44 Footnote 7 of the NPPF (2019) clarifies that:

*'out-of-date policies include, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer..).'*

9.45 The BLPSV is not yet adopted planning policy and the Council's adopted Local Plan is more than five years old. Therefore, for the purposes of decision making, currently the starting point for calculating the 5 year housing land supply (5hyr hls) is the 'standard method' as set out in the NPPF (2019). At the time of writing, the Council is unable to demonstrate 5 years of housing land supply (with the appropriate buffer).

9.46 However footnote 6 of the NPPF (2019) clarifies that section d(i) of paragraph 11 of the NPPF (2019) is not applied where '*policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*'. This includes: habitats sites and/or land designated as Green Belt. For the reasons set out in paragraphs 9.2 to 9.7 the proposed development is considered to constitute 'inappropriate development in the Green Belt' and furthermore potentially harm protected species and habitats. Where there are such restrictive policies in play, and their requirements are not satisfied by the development proposal, it is clear that the "tilted balance" does not apply, and the planning assessment is to be carried out in the usual way, having regard to the statutory test in section 38(6) of the 2004 Act.

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

10.1 The development is CIL liable and would be charged at a current rate of £295.20 per square metre.

## **11. Conclusion**

11.1 The proposal would have a greater impact on the openness of the Green Belt than the existing development. Accordingly, it is inappropriate development in the Green Belt. The applicant has not submitted any information on any other considerations that may clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm and therefore 'very special circumstances' do not exist to justify approving the application. In addition, by reason of its siting, layout, scale and design, the proposal represents overdevelopment of the site resulting in an urban appearance that is unsympathetic to, and would detract from, the open and rural character and appearance of the area

11.2 The proposed Coach House (Plot 4) has no private amenity space contrary to the adopted Borough Wide Design Guide.

11.3 No details in respect of mitigation for lighting, run off and noise pollution, associated with the development and following its construction, have been provided. In the absence of acceptable details, the proposal fails to demonstrate that it would not have a detrimental impact on protected and priority species, the adjacent Local Wildlife Site and Ancient Woodland.

11.4 The application site area is in excess of 0.5ha. No affordable housing is proposed and in the absence of a legal agreement to secure such housing, the proposal is contrary to Policy H3 of the Local Plan.

## **12. APPENDICES TO THIS REPORT**

- Appendix A - Site location plan
- Appendix B – Proposed site layout
- Appendix C – Proposed street scenes

13.

### **REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED**

- 1 The proposal would have a greater impact on the openness of the Green Belt, in which it would be located, than the existing development on site. Accordingly, it is inappropriate development in the Green Belt. The National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The applicant has failed to demonstrate that any other considerations would clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm, (as identified in the subsequent reasons), and therefore 'very special circumstances' do not exist to justify approving the application. For this reason, the proposal is contrary to adopted policies GB1, GB2(A) and GB3 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating Adopted Alterations 2003), emerging policy QP5 of the Borough Local Plan Submission Version with Proposed Changes (2019) and paragraphs 144 and 145 of the NPPF 2019.
- 2 The proposal, by reason of its siting, layout, scale and design, represents overdevelopment of the site resulting in an urban appearance that is unsympathetic to, and would detract from, the open and rural character and appearance of the area. Accordingly, the proposal is contrary to adopted policies DG1 and H10 of the Local Plan, policies Env1 and Gen2 of the adopted Hurley and The Walthams Neighbourhood Plan 2017, the adopted Borough Wide Design Guide 2020, emerging policies QP1 and QP3 of the BLPSV with Proposed Changes, and paragraphs 127 and 130 of the NPPF.
- 3 The proposed Coach House (Plot 4) by reason of its poor design fails to provide a high standard of amenity for its future occupiers, contrary to paragraph 127 f) of the NPPF and adopted Borough Wide Design Guide.
- 4 In the absence of acceptable details in respect of mitigation for lighting, run off and noise pollution associated with the development, the proposal fails to demonstrate that it would not have a detrimental impact on protected and priority species and habitats, contrary to paragraph 175 of the NPPF.
- 5 The application site area is in excess of 0.5 hectares. No affordable housing is proposed and in the absence of a legal agreement to secure such housing, the proposal is contrary to Policy H3 of the Local Plan.