

MAIDENHEAD DEVELOPMENT CONTROL PANEL

17 August 2022

Item: 2

Application No.:	22/00270/FULL
Location:	Bellman Hanger Shurlock Row Reading RG10 0PL
Proposal:	Erection of 12no. 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.
Applicant:	Shanly Homes
Agent:	Mr Kevin Scott
Parish/Ward:	Waltham St Lawrence Parish/Hurley And Walthams
If you have a question about this report, please contact: Carlos Chikwamba on 01628796745 or at carlos.chikwamba@rbwm.gov.uk	

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.
- 1.2 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.
- 1.3 At the time of decision there is also no legal agreement in place to secure the provision of affordable housing nor the carbon offset contribution. The application therefore fails to comply with policies HO3 and SP2.

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.	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.
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.
3.	No legal agreement has been provided to secure the affordable housing provision and financial contribution. The proposal is therefore fails to provide the necessary affordable housing to meet the needs of the local area and is contrary to Policy HO3 of the Local Plan.
4.	No legal agreement has been provided to secure the carbon offset contribution for the scheme to offset the impact of the proposal. The proposal is therefore contrary to policy SP2 of the Borough Local Plan.

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 as it is a major application; 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, the remodelled information highlights that the site is within Floodzone 1, this is further explained in Section 9.

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The application proposes the erection of 12 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 A mix of dwellings is proposed comprising of 9 x 4 bed and 3 x 3 bed family homes.
- 5.3 Planning History

Ref.	Description	Decision and Date
20/02462/FULL	Erection of 13 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.	Refused 18.06.2021
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	Approved 16.03.2015

	and landscaping following demolition of the existing buildings and hardstanding.	
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

6. DEVELOPMENT PLAN

Adopted Borough Local Plan (2022).

Issue	Policy
Spatial Strategy for the Borough	SP1
Climate Change	SP2
Sustainability and Placemaking	QP1
Character and Design of New Development	QP3
Development in Rural Areas and Green Belt	QP5
Housing Mix and Type	HO2
Affordable Housing	HO3
Managing Flood Risk and Waterways	NR1
Nature Conservation and Biodiversity	NR2
Trees, Woodlands, and Hedgerows	NR3

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) (2021)

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 Supplementary Planning Documents

- RBWM Borough Wide Design Guide
- Interim Sustainability Statement
- RBWM Corporate Strategy
- RBWM Environment and Climate Strategy

Other Local Strategies or Publications

7.3 Other Strategies or publications material to the proposal are:

- RBWM Parking Strategy

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

56 occupiers were notified directly of the application.

The application was advertised in the Local Press on 17th February 2022 and a site notice was erected on 28th of February 2022.

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

Comment	Officer’s Response
-Insufficient infrastructure to support development’s dwellers -Local drainage will be burdened -Impact on viability of farm (buffer between farm and development required) -Farm odours, smells and noise	Noted and addressed in Section 9 of the report.

<ul style="list-style-type: none"> -Road Access would be dangerous due to its location -Provision of affordable housing shouldn't mitigate development overall unacceptability -Adjacent to ancient woodland thus might cause overshadowing to properties -Harm to local wildlife and trees/hedgerow -Impact on character and appearance of area and overdevelopment of the site -Flood risk to the development site (Site in FZ3 and no FRA submitted) -Highway and pedestrian safety issues (inadequate access and visibility splays, increased traffic) -Inappropriate development in the Green Belt (outside recognised settlement) -No walking and cycling paths -Poor access to public transport -Impact on amenities of neighbouring properties (noise, light and vehicle movements) -Development conflicts with planning policies -Water contamination risk -Boundary fence objection and need of a 2-metre-high fence to avoid light spill -Lack of adequate amenity space and overshadowing issues 	
---	--

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. Ward Councillor, Cllr Johnson, has commented in support of the petition.

Consultee responses and Other groups

Summary of comments

Comment	Officer's Response
<p><i>Waltham St Lawrence & Shurlock Row Preservation Society;</i></p> <ul style="list-style-type: none"> -Shurlock Row is not a Road -No walking and cycling paths. -Trip generation will have an impact on highway safety. -Impact on Floodzone 3 and not FRA submitted -Impact on Green belt 	<p>The proposal's address as per the council's official records is deemed to be accurate.</p> <p>The highway considerations were already established within the previous scheme and tthis is further addressed in Section 9 of the report.</p> <p>The flooding and green belt considerations have also been addressed in Section 9 of the report.</p>

<p><i>CPRE The Countryside Charity – Berkshire;</i></p> <ul style="list-style-type: none"> -Detrimental impact on the Green Belt -Harm to the character of the area 	<p>Addressed in Section 9 of the report.</p>
<p><i>Parish Council;</i></p> <ul style="list-style-type: none"> -Several conditions recommended if scheme is to be approved -Overdevelopment of site -Site in Flood Zone 3 and No FRA submitted -Highway safety issues (Visibility splays) -Detrimental impact on the Green belt's openness -Poor transport links 	<p>Recommended conditions noted. Rest of the objections will be addressed in Section 9 of the report.</p>
<p><i>Environment Agency;</i></p> <p>Objects and recommends refusal on basis that site is within Flood Zone 3 and lack of a Flood Risk Assessment</p>	<p>Noted and addressed in Section 9 of the report.</p>
<p><i>Lead Local Flood Authority;</i></p> <p>No objection subject to surface water drainage strategy condition.</p>	<p>Noted and addressed in Section 9 of the report.</p>
<p><i>RBWM Ecologist;</i></p> <p>No objections subject to several conditions related to the protection of priority species and wildlife.</p>	<p>Noted and addressed in Section 9 of the report.</p>
<p><i>Environment protection;</i></p> <p>No objection subject to contaminated land condition.</p>	<p>Noted and addressed in Section 9 of the report.</p>

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 and Biodiversity;
- vi Trees;
- vii Flood risk;
- viii Affordable housing;
- ix Sustainability
- x Other considerations; and
- xi Planning Balance and 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 (2021) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 147). Paragraph 148 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 149 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 The development site is currently occupied by a warehouse and other smaller buildings/structures together with external storage areas, therefore it does comprise previously developed land and could be potentially assessed under both parts of Paragraph 149 (g) of the NPPF (2021). The applicant has provided 3 units of affordable housing in this instance, which represent 25% of the whole scheme. Policy HO3 of the Local Plan states that developments which propose 10 dwellings on all other sites besides greenfield sites should provide at least 30% of affordable housing. The proposal falls short of the units requirement by 5% (0.6 of a unit). The applicant proposes to make a financial contribution to make up for the shortfall in units. However, the financial contribution is not deemed to equate to the required units which would contribute to meeting an identified affordable housing need within the area of the local planning authority as required by Policy HO3. Therefore, for the purposes of the green belt assessment, the proposal cannot be assessed under the second part of Para 149 (g) of the NPPF (2021), contrary to what the submitted statement states under Paragraph 5.8, which is *‘This application requires a different test to be undertaken, Paragraph 149 (g) of the NPPF (2021) states that development contributing to an identified affordable housing need, on Previously Developed Land within the Green Belt, must be assessed as to whether it will cause substantial harm to the openness of the Green Belt’*.

- 9.5 Instead the application will be assessed under the first part of paragraph 149 (g), which allows for the redevelopment of previously developed land as long the proposed development would not have a greater impact on the openness of the Green Belt than the existing development. This was the same test used to determine the previously refused application ref; 20/02462. This application proposed the Erection of 13 no. 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.
- 9.6 Within the above referenced scheme, it was concluded in Green Belt terms that the proposal, despite a reduction in hardstanding and built form and an increase in green space across the site, by virtue of the scheme's further spread beyond the footprint of the existing building and into undeveloped areas within the site, it would result in a greater impact on openness of the green belt than the existing development. The applicant contended that the green space would reduce the impact on openness greater than the existing hardstanding within the site. However, the hardstanding was deemed a ground level measurement which has little to no impact on the Green Belt.
- 9.7 Within their planning statement, the applicant contents that the LPA's assessment of the previous application; 20/02462 was deeply flawed as the assessment of the impact on openness was solely restricted to the whether or not the development fell within the existing building footprint. The appellant points to case law ref; John Turner v The Secretary of State for Communities and Local Government (C1/2015/3507), which they say states that 'the concept of openness of the Green Belt is not narrowly limited to the volumetric approach and the consideration of openness is more nuanced'. The full Paragraph 14 within that judgement reads;
- 'The concept of "openness of the Green Belt" is not narrowly limited to the volumetric approach. The word "openness" is open-textured, and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent factors will be how built up the Green Belt would be if the redevelopment occurs (in the context of which volumetric matters are be a material concern, but are by no means the only) and factors relevant to the visual impact on the aspect of openness which the Green Belt represents'*
- 9.8 The above judgement is in line with how the LPA assessed the previous scheme as the assessment went beyond the volumetric approach. Instead, as per the judgement the LPA considered other prominent factors including how built up the Green Belt is in this location and consideration of further encroachment into the site areas which did not have existing substantial built form, the proposal was deemed to have a greater impact on openness than the existing development. The assessment of openness has considered both the spatial and visual aspects.
- 9.10 In terms of the current proposal the number of dwellings are reduced from 12 to 13 and there will be slightly more green space within the site than previously proposed. There would still be a reduction of built form (volume, floorspace and footprint of the existing building). However, as before, the existing areas of hardstanding and some of the small single storey buildings dotted within the site, beyond the main warehouse building, (small single storey buildings and hardstanding being referenced are highlighted in blue and red within Figure 10 of the planning statement), are deemed to have little or no impact on the openness of the Green Belt.
- 9.11 The minimalistic reduction in dwellings would not substantially change the layout of the current development relative to application no. 20/02462; 6 of the 12 proposed dwellings (approximately 50% of the development) primarily fall outside the footprint of the main substantial warehouse building on site. Therefore, there is still an extensive level of encroachment of the development into an area that is characterised by hardstanding and small single storey elements which are deemed to have little or no impact on the openness to Green Belt. Overall, whilst there is a

reduction in built form, the term 'openness' essentially relates to the primary absence of built development with an assessment of openness based on a development's spatial and visual impact. In this instance the reduction of built form is not considered to offset the visual and spatial harm of the development by virtue of its significant encroachment into an area of the site which currently lacks built development. This assessment by the LPA in relation to how built up the green belt would be, beyond the volumetrics, if the redevelopment occurs is deemed in accordance with within Paragraph 14 of case law; *John Turner v The Secretary of State for Communities and Local Government (C1/2015/3507)*.

- 9.12 Within their planning statement, the applicant contends that the current commercial use (storage and vehicular movements and activity associated with a storage use) has a detrimental impact on the openness of the Green Belt by virtue of the intensification associated with these operations. This is duly noted. However, the intensification associated with the operation of 12 residential dwellings, potentially individually occupied by several occupants, together with the daily vehicular movements associated with this use in an area of infrequent public transport services (thus more reliance on vehicles), is deemed to have a greater level of intensification of use than the current storage commercial use. Furthermore, the domestic paraphernalia associated with every dwelling will further increase the development's harm on openness.
- 9.13 Overall, based on the above, the proposal would have a greater impact on the openness of the Green Belt than the existing development. Therefore, the proposal is not deemed to be appropriate 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. As such, the proposal is contrary to Paragraph 149 (g) of the NPPF (2021) and Policy QP5 of the Local Plan, which has no provisions for this type of development.

Impact on the character and appearance of the area

- 9.14 The appearance of a development is a material planning consideration, and the design of a proposal should not adversely impact on the character and appearance of the wider street scene. The revised National Planning Policy Framework (NPPF), 2021 is a material planning consideration in the determination of planning decisions. Section 12 of the NPPF concentrates on guiding the overall scale, density, massing, height, landscape, layout, materials, and access of new buildings in relation to neighbouring buildings and the local area more generally. Policies QP1 and QP3 of the BLP and the Borough Wide Design Guide are in line with the above policy guidance.
- 9.15 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.
- 9.16 The applicant within their planning statement contends that whilst the site is rural in character, the existing building serves as a highly industrial storage use. Therefore, the character of the site according to the appellant is considered not to be rural. This is duly noted, however, the Framework and the development plan requires new developments to be assessed in relation to the character and appearance of the wider area beyond the development site. Therefore, this proposal cannot be solely judged in isolation with no consideration of the wider area.
- 9.17 Despite the reduction of the proposed dwellings from 13 to 12 since the previous refusal, the proposal still 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, in particular plots 10-12, which are terraced. Overall, the development would have a noticeably urban appearance.

- 9.18 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 the NPPF (Chapter 12) and Borough Local Plan Policies QP1 and QP3.

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

- 9.19 Paragraph 130 (f) of the NPPF (2021) and Borough Local Plan Policy QP3, states that development works should not cause an unacceptable impact on the amenities of the immediate neighbouring properties. Paragraph 130(f) of the NPPF (2021), also states that developments should ensure that a high level of amenity standards are achieved for future occupiers.
- 9.20 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 the private amenity spaces and properties within the development.
- 9.21 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. Concerns have been raised in regard to the terraced Plots 10-12. However, the amenity space for plot 10 will not be overshadowed as the hedge along the southern boundary have been proposed for removal, the habitable rooms for plot 11 are deemed to have sufficient sunlight (east-west orientation) and the plot 11's garden size will equate to 57.1 sqm, which is deemed to meet the required guidelines. Lastly, in terms of plot 12, the separation between the rear points of plot 12 and 4 would be at least 16 metres which is deemed adequate separation distance.
- 9.22 Due to the separation distances involved and mature boundary trees, none of the neighbouring amenities will be harmed in terms of loss of privacy, loss of daylight or sunlight or from the proposed development appearing overbearing.
- 9.23 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 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.
- 9.24 Overall, the scheme is not deemed to have an adverse impact on the amenities of the immediate neighbouring properties and the future occupiers of the development.

Highway safety and parking provision

- 9.25 BLP policy IF2 states that development proposals should support the policies and objectives of the Transport Strategy as set out in the Local Transport Plan and provide car and cycle parking in accordance with the current Parking Strategy. Furthermore, developments should cause an adverse impact to highway safety.

- 9.26 The previously refused scheme ref; 20/02462 was considered acceptable in terms of highway safety (access arrangements, required visibility splays and additional trip generation). There are no material alterations to the current scheme relative to the previous scheme as the access arrangements into the site will remain the same. Additionally, the proposed parking is deemed to be enough to accommodate the 12 dwellings in accordance with the council's parking standards.
- 9.27 Overall, subject to planning conditions to ensure the development would be implemented in accordance with the submitted drawings, together with further conditions related to construction management plans, the proposal raises no highway safety issues.

Ecology and Biodiversity

- 9.28 Paragraph 179(a) (2021) of the NPPF states 'when determining planning applications, local planning authorities should apply the following principles: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Policy NR2 of the BLP states that developments will be expected to demonstrate how they maintain, protect, and enhance the biodiversity of application sites including features of conservation value which might presence of protected/priority species. Furthermore, development proposals will be expected to identify areas where there is opportunity for biodiversity to be improved and, where appropriate, enable access to areas of wildlife importance and proposals shall be accompanied by ecological reports in to aid assessment of the schemes. Lastly, Regulation (9) 1 of The Conservation and Habitats Regulation (2017) states that as the competent local planning authority must exercise the functions which are relevant to nature conservation. As such, it is the statutory duty of duty of the planning authority to ensure that development doesn't potentially any harm protected species.
- 9.29 The application site comprises a storage hanger and warehouses where it is proposed to demolish the buildings and construct 12 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.
- 9.30 Surveys have been undertaken at the site and adjacent woodland over a number of years (2014, 2016, 2019 and 2020) and these have been updated where necessary in 2022 (Ethos, February 2022). RBWM's Ecologist was consulted, their assessment, together with that of Officer's are discussed below.

Habitats

- 9.31 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.
- 9.32 Natural England have recently reviewed the Ancient Woodland status of the area adjacent to the proposed development, as part of a previous planning application and concluded that the part of the woodland closest to the proposed development does not qualify as Ancient. The minimum buffer of 15m (in line with Natural England's guidelines) between the area of Ancient woodland and the site can be provided as part of this development proposal and the applicant has stated that this will comprise of semi natural habitat, of native species which will be inaccessible to the public, due to the installation of a 2m close board fence. The details of the fence would have been secured via a planning condition if the proposal was recommended for approval.
- 9.33 With regards to the effects of the development on the adjacent woodland, which is also a LWS and a priority habitat, it is understood that no wastewater will be discharged into the ditch on site or the surrounding woodland during and post construction, and that the onsite SUD's scheme will

improve the water quality. This should be further detailed within a Construction Environmental Management Plan and secured as a planning condition subject to planning permission being supported.

- 9.34 With regards to lighting, the applicant has confirmed that a 2m fence will be erected between the development and the woodland in order to ensure that lighting, in particular from cars, will be mitigated. The applicant has provided a Lighting Specification in order to ensure that the lighting on site will not have a detrimental effect on wildlife, in particular along the northern boundary of the site adjacent to the woodland. There is no ingress of light to the boundary habitats and therefore the northern boundary and the habitats of the LWS will retained dark for light sensitive bats commuting and foraging bats along the woodland edge and for other nocturnal species. Therefore, a lighting strategy, based on the submitted documents, would have been secured via a planning condition if the proposal was recommended for approval.

Bats

- 9.35 A bat survey of all the structures on site was undertaken in order to assess their potential to support roosting bats. All the buildings on site had negligible potential to support roosting bats and therefore no further survey is required. The substation off site, had numerous roosting opportunities within the building for bats and it was concluded that the building had high potential to support roosting bats. Given the building is off site and will not be affected by the proposed development, no further survey of this building is required either.

Great crested newts

- 9.36 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 has 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 further survey was undertaken.
- 9.37 Environmental DNA (eDNA) surveys of the ditches and pond within the woodland were undertaken and one ditch was recorded as being positive for GCN eDNA indicating GCN are present within ditch 2 and that the adjacent woodland is likely to be used by GCN during their terrestrial stage. The application site only provides a very small amount of suitable terrestrial habitat for GCN's and the applicants ecologist has considered that the proposals are unlikely to impact GCN and the provision of a buffer on the northern boundary, restoration of the pond, and restoration of grassland and mixed scrub will see an improvement on site for GCN. 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 in the event of an approval.

Reptiles

- 9.38 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 undertook reptile surveys in 2019. Although the surveys did not follow 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. Given the site still has the potential to support reptiles, following surveys during 2022, it is recommended that precautionary methods of clearance of the site are undertaken which 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. These details would have been conditioned if the proposal was being recommended for approval, as part of the methods statement within a CEMP.

Riparian mammals

- 9.39 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

- 9.40 Paragraph 174 (d) of the NPPF (2021) states that planning decisions should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity. Policy NR2 of the Local Plan states that development proposals need to demonstrate a net gain in biodiversity by quantifiable methods such as the use of a biodiversity metric.
- 9.41 The applicant's ecologist has provided a Biodiversity Net Gain (BNG) report and based on DEFRA biodiversity net gain metric 3.0 calculations, the proposed habitats on the site would result in an 81.42% gain in area habitats, a 121.72% gain in linear habitats, and a 300.52% gain for riparian habitats. The enhancements include 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, construction of hibernacula and gaps within the boundary fencing. 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 subject to a planning approval.
- 9.42 Overall, the scheme is deemed to be acceptable in terms of the Ecology and Biodiversity considerations.

Trees

- 9.43 Policy NR3 of the Local Plan states that development proposals should carefully consider the individual and cumulative impact of proposed development on existing trees, woodlands, and hedgerows, including those that make a particular contribution to the appearance of the streetscape and local character/distinctiveness. Additionally, development proposals should: i. Protect and retain trees, woodlands, and hedgerows; ii. Where harm to trees, woodland or hedgerows is unavoidable, provide appropriate mitigation measures that will enhance or recreate habitats and new features; iii. plant new trees, woodlands and hedgerows and extend existing coverage where possible.
- 9.44 The site is adjacent to an area of Ancient woodland, which is protected by a Tree preservation order. No comments from the council's tree officer were received. However, on one of the previous schemes (17/03903), the tree consultation response, highlighted that there was a need for 15 metre buffer between the proposed development and the ancient woodland to mitigate any detrimental impact to this area of woodland. As set out in 9.32 above, Natural England has reviewed the Ancient Woodland status of this area since that previous application (17/03903) 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.

- 9.45 There are two TPO areas within the site ref; 005/2017/TPO. One is to the east of the site and one of them is along the north-western side of the site. The tree report highlights 3 trees within the east side TPO are to be removed to facilitate the development, these, trees are No.22 (Field maple – Category C), No.23 (Field maple – Category U) and No.24 (Ash – Category U). By virtue of their categories C and U, they are deemed to be low amenity trees. Furthermore, Nos 23 and 24 have been assessed and deemed as hazardous (extensive decay at the base), thus, should be felled for Arboricultural management reasons, irrespective of the proposed development as concluded within Section 5.1.3 of the tree report.
- 9.46 Whilst, the TPO trees to be lost provides some level of screening between the site and the adjacent open field, the lack of development along the adjacent open field minimises their importance and their need to provide visual screening for the resultant site. Furthermore, these trees are not visually prominent when viewed from nearby public vantage points.
- 9.47 Whilst the trees were deemed TPO worthy at the time the order was imposed, they have since deteriorated hence they fall within the low-amenity categories. Overall, there is no objection to the loss of these trees subject to adequate replacements. Furthermore, the loss of these trees does not affect the site's overall biodiversity value and the resultant proposal will result a net gain in biodiversity. The applicant is however expected to provide some level of replacement planting within the site or in and around the area to compensate for their loss, this can be secured via a landscaping condition.
- 9.48 The development would also lead to the loss of H1 and H3 category C Leyland cypress hedges. Whilst these species fall within TPO area ref; 005/2017/TPO, east of the site, the TPO tree description reads all tree species are protected except for the 'Leyland cypress. Therefore, H1 and H3 are not covered under the TPO area order, and they are also deemed to be of moderate amenity value, therefore, there is no objection to their removal. Furthermore, a substantial number of trees which are deemed to be category A and B (higher amenity value) are to be retained and there will also be replacement planting of trees and native hedges, which will be secured as part of the Landscape and Ecological Management Plan (LEMP) condition.
- 9.49 The tree report highlights that No.15 (Oak Tree) (within the TPO area) will be pruned to reduce risk of limb failure and to rebalance the crown and form a more symmetrical form to create a more positive relationship with usability of the garden space associated with the development. Non-TPO tree No.62 (Ash) (partly off-site), and an off-site H2 (Leyland cypress hedge) (non-TPO) are also to be pruned to facilitate the implementation of the proposals and ensure that a sustainable relationship is retained between the retained trees and the proposed built form.
- 9.50 Overall, the pruning in terms of its impact upon the landscape are deemed to be minor as the works have already been historically carried out within the site, the proposed pruning will essentially tidy up the existing pruning. Therefore, these works are deemed to have a negligible effect on the appearance of the trees and overall character and appearance of the site.
- 9.51 Some of the existing and proposed hard surfacing fall within the root protection areas (RPA) of some of the trees to be retained. However, the demolition and construction methods in relation to the works that will fall within the RPA of these trees will be supervised and will not include any deep excavation to ensure that the roots of the subject trees will remain unharmed.
- 9.52 To conclude the development will not have any impacts on the area of woodland adjacent to the site, the trees to be lost are deemed to be of low-amenity value and the pruning will not compromise the integrity of the trees subject to these works. Additionally, the development will retain all the category A and B (high amenity value trees) and, further tree and hedge planting will be secured as part of the Landscape and Ecological Management Plan (LEMP) related to the site's biodiversity net gain subject to an approval.

Flood risk

- 9.53 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 2nd 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). It is acknowledged that this modelling was part of an application in 2017, some 5 years ago. The Environment Agency were queried on their position in regard to the validity of their comments in November 2018 and maintain that they still have an objection to the scheme. However, the applicant's hydraulic modelling classifies the site as Flood Zone 1. Given the discrepancies in the EA's comments and the applicant's hydraulic modelling, the site is still deemed to be within Floodzone 1 and an FRA in regard to Fluvial flooding is not deemed necessary. Therefore, as with previous application; 20/02462/FULL it would be unreasonable to refuse the current application on the grounds of risk from fluvial flooding.

- 9.54 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

- 9.55 The applicant has provided 3 units of affordable housing in this instance, which represent 25% of the whole scheme. Policy HO3 of the Local Plan states that developments which propose 10 dwellings on all other sites besides greenfield sites should provide at least 30% of affordable housing. The proposal falls short of the units requirement by 5% (0.6 of a unit). The applicant proposes to make a financial contribution to make up for the shortfall in units. This financial contribution is deemed adequate enough to make up for the shortfall. Therefore, notwithstanding the green belt assessment in section 9.4 of the report, the proposal is considered to be compliant with Policy HO3. Since no legal agreement has been provided for the affordable housing provision and financial contribution a refusal reason is included to this effect, as the proposal is therefore contrary to Policy HO3 of the BLP.

Sustainability

- 9.56 The council's interim sustainability statement (March 2021) highlights that new dwelling should achieve a net-zero carbon rating. Any shortfalls should be mitigated by a financial contribution to the carbon offset fund. Additionally, the statement also requires new dwellings to have provisions for electric vehicle charging and high-speed internet to facilitate home working. Additionally, Paragraphs 7 and 8, and Section 14 of the NPPF (2021) and Policy SP2 of the Borough Local Plan (2022), encourage developments to be built to mitigate climate change and to incorporate low carbon and efficient energy sources.
- 9.57 The submitted energy statement highlights that the development will reduce carbon emission by 53.79% using efficient and renewable energy sources, despite this the scheme still falls short of achieving a net-zero carbon development. However, to accommodate the shortfall, the applicant has agreed to make a financial contribution to the carbon offset fund in line with the Council's Interim Sustainability Position Statement. The proposed contribution together with any relevant lifestyle emission fees would have been secured via Section 106 unilateral obligation by the council if the proposal was recommended for approval.
- 9.58 Whilst the submitted energy statement does not consider internet speeds to facilitate home-working and there is no provision for any electric vehicle charging points, lastly no water usage information has been provided. These details can be secured via a suitably worded planning condition. Overall, the proposed development is deemed to be in line with the requirements within the council's interim sustainability statement in relation to new dwellings. However, due to the requirement for a S106 agreement to enable the scheme to be acceptable on sustainability grounds, this will be included as a reason for refusal, as without a S106 the scheme is contrary to Policy SP2.

Other considerations

- 9.59 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.
- 9.60 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. However, this was not a reason for refusal on the previous application, and it would be unreasonable to include it here for the current application under consideration.
- 9.61 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 material to the current application and is the responsibility of Thames Water.

Planning Balance and Conclusion

- 9.62 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.*

- 9.63 Footnote 8 of the NPPF (2021) 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 or where the Housing Delivery Test (HDT) indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous 3 years'

- 9.64 The council has recently had its Borough Local Plan adopted. The planning inspector relative to the Borough Local Plan, at the time of adoption (8/02/2022) deemed that the council had a 5-year land housing supply. Additionally, whilst the Borough's recent housing delivery test, published by the Department for Levelling Up, Housing and Communities (DLUHC), came back at 73%, this was published before the Borough Local Plan was adopted. In light of the 5-year housing land supply and new housing requirement upon adoption of the Local Plan, the HDT was recalculated and agreed with the DLUHC, the new revised figure now stands at 111%. Therefore, the council's current position is that the presumption in favour of development and the 'tilted balance' does not apply.
- 9.65 Notwithstanding the above, section d(i) of paragraph 11 of the NPPF, corroborated by footnote 7, clarifies that, the tilted balance also does not apply where 'policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed'. This includes areas in the Green Belt and those which provide habitation for protected species. In this instance, subsection d(i) of paragraph 11 is engaged as Green Belt policies in the NPPF provide a clear reason for refusing the development proposed, thus, the tilted balance would not apply. Therefore, the planning balance is to be carried out having regard to the statutory test in section 38(6) of the 2004 Act.

- 9.66 There are benefits that weigh in favour of supporting the scheme. In this case, the scheme would provide 12 additional dwellings, with 3 of those being affordable houses, together with a financial contribution which equates to 0.6 of a unit. Whilst this provides additional housing to the borough's housing stock with added social benefits (affordable housing, diversifying housing market and increasing consumer choice), this is only given moderate weight considering that the council currently has a 5-year land housing supply. The biodiversity net gain from the proposal should be given significant weight as a benefit of the scheme. Furthermore, the scheme would also provide jobs during the design and construction phase of the development, whilst this will benefit the local economy, this would only be temporary, thus, limited weight is given to this consideration.
- 9.67 The benefits identified are not considered to outweigh the significant harm caused to the Green Belt by inappropriateness, which is afforded substantial weight. Lastly, the proposal would also cause harm to the open and rural character of the area. It also fails to secure affordable housing and the necessary carbon offset contribution. There are no other material considerations which indicate that planning permission should be approved, nor any very special circumstances (for Green Belt purposes) presented by the applicant that would outweigh the cumulative harm identified above.
- 9.68 Overall, taking account of the Framework and the above considerations, including the benefits of the development, it is considered that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan.

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.

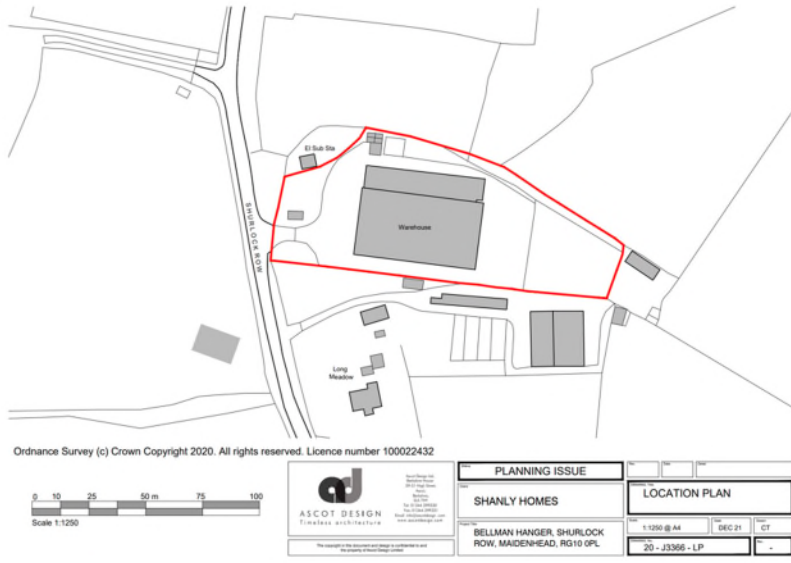
11. APPENDICES TO THIS REPORT

Appendix A – Site Location Plan
Appendix B – Plans
Appendix C - Elevations

12. 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. 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.
- 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.
- 3 No legal agreement has been provided to secure the affordable housing provision and financial contribution. The proposal is therefore fails to provide the necessary affordable housing to meet the needs of the local area and is contrary to Policy HO3 of the Local Plan.
- 4 No legal agreement has been provided to secure the carbon offset contribution for the scheme to offset the impact of the proposal. The proposal is therefore contrary to policy SP2 of the Borough Local Plan.

Appendix A



Appendix B





Appendix C

