

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

16 November 2022

Item: 1

Application No.:	21/03497/FULL
Location:	Culham Farms Frogmill Stables And The Old Estate Office Frogmill Farm Black Boy Lane Hurley Maidenhead
Proposal:	Conversion of stable barns to 7 no. dwellings and associated garages, demolition of remaining buildings and erection of 5 no. detached dwellings (and associated garage and bin stores) together with landscaping and new vehicular access.
Applicant:	Culden Faw Ltd
Agent:	Mrs Jo Unsworth
Parish/Ward:	Hurley 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 proposed development relates to a proposal for x12 new dwellings. The site is deemed to be previously development land and it is located in Green Belt. However, the proposed development would have a greater impact on openness than the existing development on-site. No case for very special circumstances exists to clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm. The scheme would also fail manage the development's residual flood risk.
- 1.2 The site is deemed to be in an unsustainable location, which would lead to an overreliance on private cars as opposed to sustainable and active modes of travel. Furthermore, due to the lack of a legal agreement to secure the carbon offset contribution related to the scheme, it fails to meet the requirements of the council's Interim sustainability position statement.
- 1.3 The scheme would also fail to demonstrate that it would not have any implications on any potential archaeological remains on-site. Furthermore, it would have an adverse impact on nature conservation.
- 1.4 Lastly, it has not been adequately demonstrated that the scheme would comply with the relevant policies for housing mix, affordable housing and open space requirements.
- 1.5 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 as it conflicts with the development plan.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 9 of this report):

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| 1. | The proposal would have a greater impact on the openness of the Green Belt than the existing development on site, as such fails to be an exception to inappropriate development in the Green Belt. 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 |
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	identified in the subsequent reasons), and therefore 'very special circumstances' do not exist which clearly outweigh the harm.
2.	It has not been adequately demonstrated that the proposal would not have any implications on any potential archaeological remains on-site. Therefore, the scheme is contrary to paragraph 194 of the NPPF (2021), and Local Plan HE1 of the Adopted Local Plan.
3.	It has not been adequately demonstrated that the scheme would be in compliance with Policy HO3 of the Borough Local Plan (2022) in terms of the provision for affordable housing.
4.	The development is not considered to promote and encourage travel by sustainable or active modes of travel. Therefore, the proposal is deemed to be in an unsustainable location, thus, it is contrary to Section 9 of the NPPF (2021) and Policy IF2 of the Borough Local Plan (2022)
5.	The proposal fails to meet the derogation test and it would have an adversely impact on ecology. Therefore, it is contrary Policy NR2 of the Local Plan (2022), and Part 1 of Regulation 9 of the Conservation of Habitats and Species Regulations (2017).
6.	The escape route, together with the evacuation plan are not deemed adequate to safely manage the residual flood risk. Therefore, the development is considered to be contrary to Paragraph 167(d & e) of the NPPF (2021), Part 6(c & e) of Policy NR1 of the Borough Local Plan (2022) and RBMW's Strategic Flood Risk Assessment (2017).
7.	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 (2022) and The Interim Sustainability Position Statement (2021).
8.	The proposed mix of housing is not in accordance with that required by policy H02 of the Adopted Local Plan, and no evidence has been submitted to demonstrate why the mix of housing type and size is adequate.
9.	It has not been adequately demonstrated that the scheme would be in compliance with Policy IF4 of the Borough Local Plan (2022) in terms of the provision open space.

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 The application site is located towards the northern end of Black Boy Lane and lies approximately 1.3km west of Hurley village. The site measures approximately 0.9ha and comprises of two stable blocks at the northern end, which are considered to be non-designated heritage assets due to their early 20th century status and the architectural and historic interest of these buildings. To the centre is an open hay barn, 2 sheds and an outbuilding, these buildings are modern buildings with little to no historic significance. A second manege is located at the southern end of the site, this is free of buildings. East and west of the second manege, are four disused and derelict former piggery buildings which lie outside of the application site but are within the ownership of the applicant.
- 3.2 To the north of the application site is an existing group of residential buildings known as Frogmill Court. This group of dwellings adjacent to the site include the original Listed Frogmill Farm House, Mill, and Barn dating from the early 19th century (All grade II listed, ref: 1319393, 1117553 and 1303198). These designated heritage assets are separate from the curtilage of the stables on-site, as the stables were in separate use at the time of listing. To the north-east is Frogmill, is another group of residential buildings. The River Thames lies beyond Frogmill Court and Frogmill. The wider surrounds comprise of agricultural land.

4. KEY CONSTRAINTS

- 4.1 Green Belt
Flood Zone 2 and 3
The setting of designated heritage assets

5. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

- 5.1 The proposed development is for the conversion of stable barns to 7 no. dwellings and associated garages, the demolition of remaining buildings and erection of 5 no. detached dwellings (and associated garage and bin stores) together with landscaping and vehicular access.
- 5.2 A mix of dwellings is proposed comprising three x 2-bedroom units; four x 3-bedroom units; three x 4-bedroom units; and two x 5 bed units.
- 5.3 The stable barns which are to be converted, in terms of height, depth and width will remain the same. The proposed new dwellings would have an overall height ranging from around 6.7 to 9 metres.
- 5.4 The proposal would lead to a decrease in the total development footprint on-site. The existing accesses to the site will be retained and parking will be provided within the garages and driveways for the proposed new dwellings. Parking for the stables, would be located in the communal courtyard, converted stable block and new carport within the site.

5.5 Planning History

Ref.	Description	Decision and Date
99/33606/CLU	Use of stables, ancillary buildings and paddocks as a commercial livery establishment.	Approved – 13.12.1999
06/00417/FULL	Replacement agricultural building.	Approved – 18.04.2006
14/02841/FULL	Erection of new linked building and conversion of former stables into B1(c) office space, together with associated parking and landscaping, following demolition of modern barn structures and alterations to the existing hay barn. Construction of new vehicular access onto the A4130.	Refused – 11.12.2014

5.6 The most recent application ref; 14/02841/FULL was refused as it was deemed to be inappropriate development in the Green Belt, it was located in an isolated location and a significant distance from public transport and local amenities. Furthermore, the scale of the new buildings and alterations to the stables was deemed to harm setting of the of the nearby listed buildings and the scheme failed to make relevant infrastructure and amenity provisions.

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
Historic Environment	HE1
Open Space	IF4

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

Section 16 - Conserving and enhancing the historic environment

7.2 **Supplementary Planning Documents**

- RBWM Borough Wide Design Guide SPD (Adopted)
- Interim Sustainability Statement
- RBWM Corporate Strategy
- RBWM Environment and Climate Strategy
- Vacant Building Credit Advisory Note
- 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

An advert was placed in the newspaper publicising the application, a site notice was displayed, and letters were sent to neighbouring properties.

3 letters were received.

1 letter was received objecting the application, summarised as:

Comment	Officer's Response
<p>-Inappropriate development in the Green Belt no very special circumstances.</p> <p>-Pre-commencement condition should be added to the permission to ensure that predicted drainage flow conditions are appropriate.</p> <p>-Development increases the on-site flood risk and mitigation measures which include raising floor levels and subsequently the</p>	<p>Noted and addressed in Section 9 of the report.</p>

developments height levels, which would harm the openness of the green belt.	
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2 letters were received supporting the application, summarised as:

Comment	Officer's Response
-In favour of the development as it will improve appearance of general locality due to its high quality.	Noted.

Consultee responses and other groups

Summary of comments

Comment	Officer's Response
<p><i>Hurley Parish Council;</i></p> <p><i>No objections.</i></p>	Noted.
<p><i>Berkshire Archaeology;</i></p> <p>Scheme of archaeological trial trenching should be undertaken, prior to determination of this development application, in order to provide further information about the potential of the site, which will be impacted by the new development.</p>	Noted and addressed in Section 9 of the report.
<p><i>Local Lead Flood Authority (LLFA);</i></p> <p>Within their initial comments the LLFA requested further information from the applicant in regard to the drainage attenuation, sewage maintenance & discharge rates and works outside the redline boundary.</p> <p>The applicant provided a technical note clarifying these points and upon reconsultation no objections were raised by the LLFA subject to a surface water drainage scheme condition prior to any construction works.</p>	Noted and addressed in Section 9 of the report.

<p><i>Environment Agency;</i></p> <p>The initial comments from the EA were not detailed and were in line with their Standing advice in regard to development in the flood zone. Upon further consultation the EA stated the following;</p> <p><i>'The majority of the land being developed for new housing is in flood zone 1 and we would agree with this. The barn conversion is within the climate change extent as is the land raising taking place to deliver safe access.'</i></p> <p>Furthermore, the EA went on to say; <i>'We maintain that this is a lower risk application in terms of flood risk, and we do not wish to comment any further. We urge you to consider Flood Risk Standing Advice and the recommendations of the Flood Risk Assessment when coming to a decision'</i></p>	<p>Noted and addressed in Section 9 of the report.</p>
<p><i>Emergency Planning Officer;</i></p> <p>The safe route out of the development is a walking route and relates to the residents being able to walk safely from the site to the road where they can be supported by the emergency services.</p> <p>The evacuation plan requires residents to contact the council about evacuation details. This is not acceptable since the whole purpose of having the plan is to ensure all the occupants of the residential units would know what to do and where to go and importantly when so as not to impact on the emergency services and other responders at times of flood.</p> <p>Instead, we would expect people to move to be signed up to the EA flood warning system and act upon the advice including flood mitigation to properties and moving to stay with friends and family, so they are not stranded in their homes calling for help or walking to an area for the emergency services to support them.</p> <p>However, since the site is not a 'gated/managed' site, and the Flood Warning and Evacuation Plan is not enforceable since</p>	<p>Noted and addressed in Section 9 of the report.</p>

<p>the EA Flood Warning System is an opt in and not an opt out system and many of the actions are in relation to individual residents and therefore unless in a covenant the plan is not workable.</p>	
<p><i>Affordable Housing Officer;</i></p> <p><i>'Considering that the site is remote and 1 affordable dwelling is required after Vacant Building Credit has been considered, a Registered Provider would be unlikely to make an offer to the developer. Therefore, a financial contribution should be sought in lieu'</i></p> <p>The applicant highlighted their intention for the affordable unit to be secured for one of the Estate workers (who usually struggle with open market rates) this to be secured via a legal agreement.</p> <p>Upon further reconsultation the Affordable Housing Officer requested more details of how the applicant proposes to allocate the affordable dwelling to an estate worker as not only does it appear to not involve a RP, but it would also bypass the normal process of engaging the Housing Options Team to nominate a household from the RBWM Housing Register.</p>	<p>Noted. At the time of writing this report, the applicant was yet to respond to the request for additional information in regard to the affordable unit being proposed to be secured for an estate worker.</p> <p>The affordable housing considerations are considered within Section 9 of the report.</p>
<p><i>Conservation;</i></p> <p>No Objection to the proposal subject to the retention of architectural/historic features, external and internal, of interest. Furthermore, a materials condition has been recommended and, a record of the early 20th century buildings should be required by condition to HE Level 1.</p>	<p>Noted and further addressed in Section 9 of the report.</p>
<p><i>Ecology;</i></p> <p>No objections to this application on ecological grounds subject to CEMP (Biodiversity), Bat Licence, Lighting Scheme and biodiversity enhancement conditions.</p>	<p>Noted and addressed in Section 9 of the report.</p>

<p><i>Highways;</i></p> <p>No objections subject to cycle parking and visibility conditions.</p>	<p>Noted.</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. Heritage considerations
- iv. Impact on the amenities of future occupiers of the development and neighbours;
- v. Affordable housing;
- vi. Housing mix
- vii. Highway safety and parking provision
- viii. Sustainable Location
- ix. Ecology and Biodiversity;
- x. Flood risk;
- xi. Sustainability ; and
- xii. Open Space
- xiii. Planning Balance and Conclusion

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

9.3 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.”

- 9.4 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.
- 9.5 The application site has a lawful development certificate for use as a commercial livery establishment and therefore is not considered to be agricultural. With reference to the definition in Annex 2 of the NPPF, the site is therefore considered to be previously developed land (PDL). The applicant has put forward a case that the proposed development by virtue of the reduction in built form (volume, footprint and floorspace) relative to the existing structures to be demolished would not have a greater impact on openness than the existing development on site. Below is a table detailing the footprint, floor space and volume of the existing and proposed development;

	Existing	Proposed	Percentage Difference
Footprint	2,574m ²	1,767m ²	-31.4%
Floorspace (GIA)	2,459m ²	2,302m ²	-6.4%
Volume	11,129m ³	9,325m ³	-16.2%

- 9.6 It is acknowledged that the proposed development would reduce the above metrics relative to the existing development. However, the concept of assessing openness is not solely limited to the volumetric approach and the consideration of openness is more nuanced. This is supported by case law in, particular ref; John Turner v The Secretary of State for Communities and Local Government (C1/2015/3507), 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’

- 9.7 Beyond the volumetric approach, the LPA has to consider other factors including how built up the Green Belt would be if the redevelopment occurs and factors relevant to the visual impact on the openness which the Green Belt represents. The proposed development would encroach into an area of the site which is currently free of development, constituting a spread of development across the site beyond the confines of the existing development. Furthermore, by virtue of the scale and massing of the proposed new dwellings due to their more prominent height relative to the existing structures to be demolished (lower-level single storey structures replaced with two-storey

properties), the proposal is deemed to have a greater impact on the openness of the Green Belt than the existing development. For further context, the table below details the approximate maximum height differences between the existing and proposed development;

Existing building	Height	Proposed Building	Height
Large Stable Barn (retained as existing within proposed scheme)	7.5 metres	The Great Barn	9 metres
Small Stable Barn (retained as existing within proposed scheme)	5.2 metres	The Brewhouse	8.7 metres
Hay Barn	5.2 metres	The Granary	8.4 metres
North Shed	5.1 metres	The Farmhouse	8.3 metres
North Shed	5 metres	The Coach House	8.2 metres
Outbuilding	3.5 metres	Carport	6.7 metres

- 9.8 It is recognised that the proposed new dwellings would be set back from Blackboy Lane relative to some of the existing buildings on-site. However, due to their increased height, this set back will not materially reduce the visual prominence of the proposed buildings from Blackboy Lane.
- 9.9 In this instance the reduction of built form as a result of the proposal is not considered to offset the visual and spatial harm to the Green Belt, that would arise from the increase in spread of development across the site, and from the proposed new dwellings which are significantly higher than the existing buildings on site. The area within the site currently occupied by the haybarn would be open/undeveloped within the proposed development scheme. However, the existing haybarn is a low-level structure of open construction and due to this it has a limited impact on the openness of the Green Belt. As such, despite this area of the site being open within the proposed scheme, this doesn't offset/mitigate the increased spread of development across the site, and the significantly taller buildings that would be created as a result of this proposal.
- 9.10 It is also mentioned within the planning statement that the area of hardstanding will be reduced by about 44% by virtue of the proposed gardens and open space relating to the development which will be semi-natural. Whilst the amount of hardstanding would be reduced, the level of intensification relating to a residential use for 12 dwellings, which will entail on-site parking, associated vehicular movements and domestic paraphernalia would impact upon the openness of Green Belt.

9.11 Overall, based on the above, the proposal would have a greater impact on the openness of the Green Belt than the existing development, and would not fall under the relevant exception to inappropriate development as set out under Paragraph 149(g) of the NPPF (2021). Paragraph 148 of the NPPF 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' (VSC) 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. The planning balance and conclusion within Section 9.87 and beyond will set out if any VSC exist.

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

9.13 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 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 SPD are in line with the above policy guidance.

9.14 The area surrounding the site is distinctly rural in character and appearance. The nearby residential development north of the site along Frogmill Court is characterised by dwellings within a courtyard formation. The proposed layout for the development will also depicts a court yard-like formation especially the dwellings in the middle of the site (The Brewhouse, The Great Barn and The Granary), together with the carport/garage, which forms an L-shape formation comprised of these 4 buildings. Furthermore, the existing barns to be converted have a similar formation/layout which depict the character along Frogmill Court. The two new dwellings further south of the site namely the Coach House and the Farm house will be well spaced and extensively set back from Black Boy Lane reducing their visual prominence. The design of the new dwellings will be characterised by agricultural barn style roof designs at two-storey level, which is similar in design to some of the properties along Frogmill Farm, especially those which front onto Black boy lane. Lastly the new the ridge heights of the new builds will be in keeping with the hierarchy of traditional farmsteads and the nearby two-storey properties along Frogmill Court.

9.15 In regard to the converted stables, the external alterations to facilitate the use of these buildings for habitable purposes, subject to a detailed account of the proposed materials secured via a pre-commencement of works condition is not considered to externally alter the appearance of these buildings to a level that will harm their original character.

9.16 The proposal as per the Arboricultural statement would lead to the loss of some of the trees and shrubs on-site, none of which are deemed to be category A nor of TPO status, thus, a diminished amenity value. Therefore, the loss of these trees/shrubs would not have a significant effect on the site or wider area in terms of visual amenities. Furthermore, the trees/planting proposed would be compensated for within a new landscaping scheme, which would increase the site's biodiversity value as addressed later on in the report. Lastly, the proposed development would reduce area of hardstanding on-site by about over 40% by virtue of the proposed planting, gardens and open spaces to the development which will be of a semi-natural character. Therefore, to conclude the proposal will retain a good balance between the soft and hard landscaping features on-site.

9.17 Overall, the proposed development is considered to constitute to good design.

9.18 Heritage considerations

9.19 The buildings (the stables) on site are adjacent and linked to the history and usage of the listed Frogmill Farm House, Mill and Barn (all grade II listed, ref: 1319393, 1117553 and 1303198), which are to the north of the application site. Local Plan policy HE1 highlights that the Council should have special regard to the preservation of listed buildings and their settings. The proposal, in regard to its layout, roof form and style, and dimensions has been sensitively designed to be sympathetic to the nearby heritage assets. Therefore, it is not considered that the development would harm the setting of the Listed Buildings, thus, as per Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the LPA has had special regards to the desirability of preserving the historic interests of the nearby listed buildings and their setting.

9.20 The existing stables on site which are proposed to be converted are deemed to be non-designated heritage assets as confirmed by RBWM Conservation. Paragraph 203 of the NPPF (2021) state that the effect of an application on the significance of a non-designated heritage asset should be considered in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. RBWM Conservation highlighted that the alteration works to the non-designated heritage assets would harm their historic significance, and that this harm would have a moderate negative impact on the historic fabric and immediate courtyard setting of the stables and office buildings to be converted. However, it is considered that the repair and reuse of these buildings for residential purposes means that these buildings would be retained, which is a positive and whilst conversion to residential does require some alterations to facilitate the use, the alterations would only result in some loss of historic features of this building. As such, the impact of the proposal on this non-designated heritage asset is considered to be acceptable.

9.21 Archaeology

9.22 Paragraph 194 of the NPPF (2021) states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Furthermore, policy HE1 of the Local states that applications for works within archaeologically sensitive areas will be required to include a desk-top archaeological assessment. Berkshire Archaeology were consulted and concluded the following;

'Scheme of archaeological trial trenching should be undertaken, prior to determination of this development application, in order to provide further information about the potential of the site, which will be impacted by the new development'

9.23 Based on the above, this information is required prior to the determination of the application and cannot be secured via a planning condition as the results of the trial trenching could affect the principle of the development in terms its layout within the site. The applicant was informed that this information would be required predetermination in an email to the planning agent on 13/02/2022, and at the time of writing this report, the applicant had not provided this information in relation these required investigative works to demonstrate that the proposal would not have any implications on any potential archaeological remains on-site. Therefore, the scheme is deemed contrary to paragraph 194 of the NPPF (2021) and Policy HE1 of the Local Plan (2022).

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

- 9.25 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.
- 9.26 Given the distance, siting and orientation of proposed buildings in relation to existing neighbours, it is considered that the proposal would not affect the amenities of the nearby neighbouring properties in terms of loss of light, outlook and overlooking.
- 9.27 The separation distances between the new build dwellings will be at least 2 metres from flank to flank. Considering their modest roof forms which slope away from the mutually shared side boundary lines, this distance is considered to be sufficient to provide a visual buffer between the resultant new dwellings and mitigate any loss of light or overshadowing effects.
- 9.28 The habitable spaces within the newly built dwellings will receive an adequate amount of sunlight/daylight. Furthermore, the stables (to be converted) by virtue of their orientation would receive an adequate amount of sunlight/daylight into their habitable rooms. The central carport which serves the new dwellings would be close to the private amenity spaces of stable units 4 and 5. However, due to its modest height and location to the rear end of these spaces it will not cause any significant overshadowing effects the rear gardens of these properties.
- 9.29 The habitable room windows within the converted stables and new buildings will not provide any material outlook into the adjacent buildings within the development nor will they provide direct views into the private rear amenity spaces. Therefore, the proposal will not cause any overlooking issues to future occupiers of the development. The private amenity space provisions for all the proposed new dwellings will exceed the requirements set out within the borough wide design guide.
- 9.30 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 would have a good standard of amenity.

9.31 **Affordable Housing**

- 9.32 Policy HO3 of the Local Plan states that developments which propose 10 dwellings on all other sites (except for greenfield sites) should provide at least 30% of affordable housing.
- 9.33 The development site relates to a previously developed site. Paragraph 64 of the NPPF (2021) stipulates that to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount. Footnote 30 of the NPPF highlights that any affordable housing offset should be equivalent to the existing gross floorspace of the existing buildings and should not apply to vacant buildings which have been abandoned.
- 9.34 The NPPG corroborates this and states that, where a vacant building is brought back into any lawful use or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

9.35 The NPPG also goes to say that the courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property
- the period of non-use
- whether there is an intervening use; and
- any evidence regarding the owner's intention

9.36 The Council's Advisory Note on Vacant Building Credit (2018) also provides further guidance on Vacant Building Credit. The advisory note highlights that the vacant building credit is not intended to incentivise the eviction of existing businesses or the neglect of premises which are currently in use, and it does not apply where buildings have been abandoned and according to the national guidance. When considering how to apply the VBC local planning authority should have regard to the following:

- i. Whether the building has been made vacant for the sole purposes of redevelopment; and
- ii. Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

9.37 Lastly the advisory note highlights that in determining whether a building has been made vacant for the sole purposes of redevelopment, the Council will require the applicant to demonstrate a high standard of evidence to show the circumstances of the building becoming vacant. The Council is very likely to require detailed evidence of how the site has been actively marketed on realistic terms based on the current or any permitted use, typically for a minimum of 24 months prior to the submission of a planning application.

9.38 The applicant provided a technical note highlighting why the proposal is subject to a vacant building credit in relation to the affordable housing provision as highlighted below;

- The applicant illustrates that since 2011 the buildings were no longer required to support the site's commercial livery activities as other site's (Lower Bolney Farm & Lower Shiplake) acquired by the estate made more practical sense to commercially stable the horses which previously resided at Frogmill Farm. As such there was no need to stable horses commercially at Frogmill Farm as all the Estate's equestrian operations were to be run from Lower Bolney Farm, which include liveries (over 200 horses are currently housed there).

- The consolidation of the Estate's equestrian facilities at Lower Bolney made economic sense. It is mentioned that in terms of practicality, it was no longer appropriate to house the horses at Frogmill, as there were limited opportunities to ride them along the river Thames (which is not a bridleway) or west of the site on the Estate itself (as this is now arable farmland). Therefore, since then the buildings have been surplus to requirements in regard to the previous active livery use.

- Upon the livery buildings being made vacant in 2011, between 2012 and 2021, the applicant submitted a series pre-application and a FULL as evidently accounted for within the site history as per the council's records. An initial pre-app and then FULL application in 2014 in relation to the conversion of the site for a B1(c) was refused by council. The applicant subsequently returned to the council with a series of further pre-applications in relation to a residential scheme between 2018 and 2021. Shortly after, the pre application advice for latest

scheme was issued to the applicant in November 2021, the applicant submitted the subject a full planning application for 7 dwellings in the main stable and 5 on land to the south.

- 9.39 Overall, the technical note highlights that the buildings were not initially made vacant for sole purposes of redevelopment instead they were no longer required to and deemed practical to support the existing use. Furthermore, no tenants were evicted for this purpose. RBWM's VBC note highlights that marketing evidence will only be required where it is necessary to demonstrate that the buildings were made vacant solely for the purposes of redevelopment. Given this is not the case, no marketing of the site has taken place as this would not be necessary or appropriate in the circumstances. Lastly, the building is not covered by an extant or recently expired planning permission for the same or substantially the same development.
- 9.40 In regard to whether the buildings have been abandoned, the Applicant has highlighted consistent efforts to advance proposals for redevelopment of the site in the intervening period. Whilst the stable buildings have fallen into a state of disrepair as a result of the lack of use, the structural report submitted with the scheme notes that the main stable building is structurally sound, therefore, they it can be repaired to facilitate the existing use if need be. In regard to repairing the stable buildings the applicant did not deem it financially viable to do so when there is no need for a livery facility in this location due to the enterprise at Lower Bolney Farm. Furthermore, it has been stated that the Applicant is reluctant to repair and maintain the stable buildings in anticipation of securing proposals for redevelopment; given that a significantly higher standard of works would be required in the event that planning permission is granted, and if the proposed residential use comes forward. Overall, the lawful use of the site as a livery could be reinstated subject to some repair works and there has been no alternative intervening use which might suggest this use has been abandoned.
- 9.41 The submitted technical note was also reviewed by the council's affordable housing officer and no objections were raised in regard to the credibility of this information. Overall, it is considered that the scheme benefits from vacant building credit. Footnote 30 of the NPPF highlights that any affordable housing offset should be equivalent to the existing gross floorspace of the existing buildings.
- 9.42 The existing gross internal floorspace of the existing buildings equates to 1,790 m². This figure excludes the Haybarn as is not an enclosed structure, therefore, based on the definition of a building within the RICS Code of Measuring Practice, this structure does not have internal floor area as it isn't of an enclosed construction. The proposed floorspace for the development as highlighted within the submitted design and access statement equates to 2,302m².
- 9.43 RBWM's advisory note on vacant building credit highlights the formula for working out the affordable housing requirements. Below is the affordable housing provision for the current proposal based on this formula;
- i. Existing building (1,790 sqm) divided by total floor space proposed (2,302 sqm) = Vacant building credit of 77.7%
 - ii. Amount of residential units proposed (12) multiplied by the adopted affordable housing policy (30%) = Gross Affordable Housing (AH) Requirement of 3.6 units

iii. Gross AH requirement (3.6 units) multiplied by Vacant building credit (77.7 %) = Vacant building credit of 2.8 units

iv. Gross AH requirement (3.6 units) less Vacant building credit (2.8 units) = 0.8 units

9.44 Based on the above, the required amount of the affordable housing for the scheme factoring in the vacant building credit is 0.8 units. The affordable housing officer was consulted in regard to the scheme and highlighted that considering that the site is remote and only 1 affordable dwelling is required, a registered Provider (RP) would be unlikely to make an offer to the developer. Therefore, a financial contribution should be sought in lieu. The applicant highlighted their intention for the affordable unit to be secured for one of the Estate workers (who usually struggle with open market rates) this to be secured via a legal agreement. Upon further reconsultation the Affordable Housing Officer requested more details of how the applicant proposes to allocate the affordable dwelling to an estate worker as not only does it appear to not involve a RP, but it would also bypass the normal process of engaging the Housing Options Team to nominate a household from the RBWM Housing Register.

9.45 This information was requested within an email to the planning agent on 30/09/2022 and at the time of writing this report no information has been provided. Furthermore, to date the applicant has not clearly indicated their intentions on making a financial contribution as initially requested. As such, it has not been demonstrated that the scheme would be in line with Policy HO3 of the Local Plan.

9.46 **Housing mix**

9.47 Policy HO2 of the Local Plan states that proposals should provide an appropriate mix of dwelling types and sizes, reflecting the most up to date evidence as set out in the Berkshire SHMA 2016 or successor documents. The table below details the required mix for market dwellings by the SHMA relative the mix within the proposed 12 dwelling scheme;

Dwelling size	2 bed	3 bed	4+ bed
Berkshire SHMA 2016	25-30%	40-45%	20-25%
Proposed scheme	3 units – 25%	4 units – 33.3%	5 units – 41.7%

9.48 As per the table below, the proposed mix has is not reflective of the SHMA. No evidence of local circumstances/ market conditions has been undertaken to show an alternative housing mix would be more appropriate. Therefore, the development is contrary to Policy HO2 of the Local Plan.

9.49 **Highway safety and parking provision**

9.50 Policy IF2 of the Local Plan 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 not cause an adverse impact to highway safety. As a material consideration paragraph 110 of the NPPF states that development proposals should ensure safe and suitable access to the site can be achieved for all users, and any significant impacts from the development on the transport network (in terms of capacity

and congestion) or on highway safety can be cost effectively mitigated to an acceptable degree. Paragraph 111 of the NPPF goes on to state that development should be prevented or refused on highway grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

9.51 Access to the new-build element to the south of the application site would be taken from the existing southernmost access onto Black Boy Lane, which would be modified. The existing central access would be retained to continue to provide access to the rear of Frogmill Cottages. Access to the dwellings in the stable conversion element to the north of the application site would be taken from the existing northernmost access onto Black Boy Lane, which would be retained in its existing form. Visibility splays appropriate for the recorded approach speeds on Black Boy Lane can be provided in each direction on exit from these accesses. In regard to this RBWM Highways raises no objections to the utilisation of the existing accesses, however, it was recommended that the applicant cut-back, preferably permanently remove the shrub and hedging to improve the visibility splays to the right (north) of this access. The visibility splay details would be secured via a condition if the proposal was recommended for approval.

9.52 The transport statement highlights that the following in terms of the proposal's parking provisions;

Car parking for the 5-no. new-build dwellings will be provided on driveways and within garages. Parking for the 7 no. dwellings provided by the conversion of the large stable block will be located in a communal courtyard area (5 no. spaces), with the smaller stable block divided equally between five of the units to provide a garage for each dwelling. Garaging for the remaining two dwellings provided by the stable conversion will be located within a proposed car port (4 no. spaces) located to the south of the main stable building and accessed via the new-build element.

9.53 As per the adopted parking standards for the council, the above layout and provisions are deemed acceptable for the mix of;

7 2/3 Beds – 2 parking spaces per unit (14 total parking spaces)

5 4/5 Beds – 3 parking spaces per unit (10 parking spaces in total)

9.54 RBWM Highways also deem the parking spaces acceptable. In regard to cycle parking each dwelling attracts a demand for one covered and secure cycle parking space. No specific details have been provided for these considerations and such details would have been secured via a planning condition.

9.55 The traffic generation as a result of the development would not be any worse than the existing livery use, therefore, in line with paragraph 111 of the NPPF the development will not have any significant impacts on the local road network. RBWM Highways raised no objection in relation to the development's traffic generation. RBWM Highways also deem that refuse provision will be suitably used, as bin stores will be located in locations that don't exceed the maximum drag and carry distances outlined in Manual for Streets, for both residents and refuse collection. The refuse provision therefore is suitable, as the reuse vehicle is able to enter and exit the site in a forward gear, turn within the site and exit in a forward gear.

9.56 Overall, the proposal raises no highway safety issues and would provide an adequate level of parking.

9.57 **Sustainable Location**

9.58 Section 9 of the NPPF (2021), states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. Policy IF2 of the Local Plan states that new development should be located close to employment and local services & facilities to provide safe, convenient sustainable modes of transport, and that development that helps create a safe and comfortable environment for pedestrians and cyclists and improve access by public transport will be supported. Furthermore, Policy QP1 of the Local Plan states that larger developments (10 units or more) should provide for facilities and routes that encourage walking and cycling

9.59 The applicant submitted a Transport Note which highlights the following in terms of the available modes of transport available to the users of the development;

Walking; The village of Hurley to the east is within walking distance (2km). A footway adjacent to the A4130 Henley Road links Black Boy Lane with this village, and alternative, low traffic routes are also available.

Cycling; The village of Hurley and the town of Henley-on-Thames are both within 5kms of the site, a distance deemed reasonable for cyclists to cycle to work or nearby facilities and amenities. Low traffic routes are also available to Crazies Hill and Wargrave to the south-west, also within cycling distance.

Bus; The nearest bus stop to the site is located at Hurley Riverside caravan park. Although within walking distance of the site, it is unlikely residents would realistically be able to use the bus service on a daily basis due to the limited service.

Train; The nearest railway station to the site is Henley-on-Thames located approximately 6km to the west of Frogmill Farm. The station is the terminus for the branch line to Twyford. From Twyford services operate to London Paddington and Reading. Covered cycle parking is provided at Henley-on-Thames station.

9.60 There are cycle and pedestrian facilities nearby (A4130) which could potentially link the development site to key areas of amenities and local services, however, the site is still accessed off Blackboy Lane. Blackboy Lane is predominantly characterised by a lack pedestrian and dedicated cycle facilities, therefore, there is a poor link between the pedestrian and cycle facilities nearby the site which would encourage sustainable, active and safe modes of travel to wider parts of the borough. Additionally, the nearest bus stop (Hurley High Street) to the site is a 25+ minute walk away, and this Bus stop which is served by bus No.239 has a very limited service. The applicant's own transport statement acknowledges that, *It is unlikely residents would realistically be able to use the bus service on a daily basis due to the limited service.* Overall, it is deemed that the development by virtue of its location, the cycle and pedestrian limitation and distance of nearest bus service and its infrequency represent an unsustainable form of development which would not encourage travel by sustainable or active modes of travel. The applicant's transport statement corroborates this conclusion by highlighting that, *residents are likely to be reliant on the private car for most of their journeys.* Furthermore, one of the previous reasons for refusal in the previous scheme (14/02841/FULL) included the development's siting in an isolated location, which would lead to the total reliance on private cars.

9.61 To conclude, the limited cycle and pedestrian facilities along Blackboy Lane have not been acknowledged within the proposed development and no mitigation measures have been proposed to counter act this and promote a form development that would encourage travel by sustainable or active modes of travel. Therefore, the development is

deemed contrary to Section 9 of the NPPF (2021) and Policies QP1 and IF2 of the Borough Local Plan.

9.62 Ecology and Biodiversity

- 9.63 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.
- 9.64 The submitted ecology report states that the majority of the habitats on site are of low ecological value (building, hard standing, grassland, scrub, ruderal vegetation and introduced shrub) although there were hedgerows, mature scattered trees and a stream which had higher ecological value. A small number of trees are to be removed to facilitate development. These are to be replaced by planting within a landscaping scheme, which would have been secured via planning condition if the proposal was to recommend for approval. The ecology report also concluded that it is unlikely that great crested newts, dormice, notable plants, or invertebrates are present on site or that the site is important for badgers.
- 9.65 In regard to reptiles a very low population of grass snakes was recorded on site during the reptile survey. Due to the relatively small scale of the proposed works, a translocation of reptiles is not required. RBWM Ecology recommended condition be set to ensure that any site clearance and development works which could affect herpetofauna are undertaken under the supervision of a suitably qualified ecologist following an appropriate approved Reasonable Avoidance Measures (RAMs) method statement for reptiles, described within the ecology report. This condition would have been added to the proposal if it was recommended for approval.
- 9.66 ■ The applicant submitted a bat survey initially undertaken in 2014 then updated in 2021. The survey concluded that the single storey office stable building and main stable units subject the residential conversion within the development site hosted roosts for non-breeding bats. Amongst these bats were common pipistrelle, soprano pipistrelle and brown long-eared bats. Furthermore, one of the trees within the site T1, supported bat roost for two non-identified bats (likely to be Common or Soprano pipistrelle). However, this tree is to be retained as part of the development. It is confirmed within the survey that the proposed renovations to the single storey office stable building and main stable units to facilitate the residential development would result in the loss of the identified roosts. Mitigation measures have been proposed to include new bat roosting opportunities within the site, such measures would form basis of a detailed method statement which should accompany an application to natural England for a full EPS licence to permit development works.
- 9.67 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 any harm protected species. At present the applicant

has not yet obtained a European Protected Species licence from Natural England. Therefore, the LPA must exercise its functions relevant to nature conservation and consider the requirements of Regulation 9 (3) of the Habitats Regulations and have regards in determining this planning application and establish whether there would be a reasonable prospect of a licence being granted. the three following derogation tests that have to be considered are:

- i. The proposal needs to be carried out for imperative reasons of overriding public interest.
- ii. There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
- iii. The necessary compensatory measures can be secured

9.68 In regard to the first test the public interest generated by the proposal can be of social, environmental or economic interest. The current proposal would have social and economic benefits as it would provide housing and it would provide temporarily jobs during the construction phase of the development. However, the proposal would be contrary to the environmental policies within the development plan as the proposal is inappropriate development in the green belt, is sited within an unsustainable location and it would not appropriately manage the site's residual flood risk. Lastly, the proposal would fail to secure provisions which mitigate its related carbon emissions. As such, it cannot be concluded that the proposal needs to be carried out for imperative reasons of overriding public interest. It therefore fails the first test.

9.69 The second test relates to whether there are alternative solutions that would be less damaging or avoid damage to the site. No information has been submitted to demonstrate that the buildings with the bat roosts (the buildings for residential conversion) could be either left in their existing use which would avoid harm to the roosts, or that the buildings cannot be developed in way that would avoid harm to this bat roost. As such, it is not considered that the second test has been met.

9.70 In regard to the third test, the applicant has outlined a mitigation plan within the submitted bat survey to ensure that replacement roost sites within the development are provided during and post development. It has been mentioned that the species recorded within the site are known to roost in trees and bat boxes, whilst these are not equivalent to what is being lost it would be the most reasonably alternatives. Most of the proposed roosting alternatives would be short term and undertaken during the construction phase of the development. Considerations for the long-term provision of alternative roosts can only be secured after the detailed design has been implemented. The provisions also include appropriate timings of works under specific conditions to mitigate extensive harm to the existing habitats. If it is implemented the favourable conservation status of bats should be maintained

9.71 As such, it is considered that the proposal fails to meet the first 2 of the derogation tests set out under Habitats Regulations. Therefore, it would be contrary to Policy NR2 of the Local Plan.

9.72 *Biodiversity*

9.73 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.

- 9.74 The applicant has provided a Technical Note in regard to the Biodiversity Impact Assessment. The document provides a Biodiversity Net Gain (BNG) and based on DEFRA biodiversity net gain metric 3.0 calculations. The proposed development would result in a habitats units area gain in excess of 1000%. Details of such gains and enhancements in terms of the locations, specifications, and management prescriptions would have been secured via a Landscape and Ecological Management Plan (LEMP) if the proposal was recommended for approval.
- 9.75 **Flood risk**
- 9.76 In accordance with the Environment Agency's Flood Map for Planning, the entire site falls within Flood Zone 2 (medium risk flood) with a small section of land to the west falling in Flood Zone 3 (high risk of flood).
- 9.77 An FRA by Glanville has been submitted with the application which put forward that based on detailed modelling the new build elements would be located within land in Floodzone 1, part of the stables to be converted into residential properties would be located in Floodzone 2. This conclusion has been reached using the contours of modelled flood levels associated with the 1 in 1000 (flood zone 2), 1 in 100 (flood zone 3) and 1 in 100 plus climate change provided by Product 4 from the EA (dated October 2020), which is overlaid on a topographical site survey and then overlaid on the site layout of the proposed development. In regard to this within their consultation comments for this scheme, EA has confirmed that they agree that the majority of the land being developed for new housing is in flood zone 1 and the stable conversion is within the climate change extent (1% AEP plus a 35% allowance).
- 9.78 Development in Floodzone 1 and residential conversions in Flood zone 2 do not require the application of the flood risk Sequential Test.
- 9.79 Paragraph 167 of the NPPF and part 6 of Policy NR1, which states that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere and should demonstrate, through a site-specific flood risk assessment, that the development is located in the areas of lowest flood risk; the development is appropriately flood resistant and resilient; it incorporates sustainable drainage systems unless there is clear evidence that this would be inappropriate; any residual risk both within and beyond the site can be safely managed; and safe access and escape routes are included where appropriate as part of an agreed emergency plan.
- 9.80 The application site is surrounded by land within Flood zones 2 and 3 and these developable areas essentially deemed to be a 'dry island'. Therefore, flood risk management and mitigation measures by which the site can be made safe from any residual risk are required.
- 9.81 In regard to the finished floor levels, it is proposed that the finished floor levels for the new build dwelling will be set no lower than 31.27m AOD. This would be at least 300mm above the worst case 1 in 100 year +70%CC flood level of 30.97m AOD. The Finished floor levels for the dwellings that are to be provided by converting the stable buildings are dictated by floor levels of the existing buildings. The existing stable floor levels range from 30.99m AOD to 31.05m AOD and are therefore above the flood levels of the worst case 1 in 100 year +70%CC flood level of 30.97m.

- 9.82 The applicant has within their Flood risk assessment and an email received on 20/09/2022 indicated that in terms of safe access and egress, the proposed evacuation route from the site to an area wholly outside the floodzone would be to the Black Boy Public House which is outside of the flood zone. The route connects from the site via Blackboy Lane to the A4130 at the Black Boy public house, an area wholly outside the Flood Plain. However, the entire route would not achieve a 'Low Hazard Rating' for all users and the supporting flood information notes that the route is predominantly considered to be 'Hazardous to some'. This would be contrary to the Council's Strategic Flood Risk Assessment (SFRA) (2017) which requires any safe and egress to be entirely low hazard, a Hazard for some' rating puts vulnerable people at risk (in particular children and the elderly) in a flood event.
- 9.83 Whilst a Flood evacuation Plan has been submitted, the evacuation plan requires residents to contact the council about evacuation details. This is not acceptable since the whole purpose of having the evacuation plan is to ensure that all the occupants of the residential units would know what to do and where to go, and importantly when so as not to impact on the emergency services and other responders at times of flood.
- 9.84 Instead, the plans sets out that there would be an expectation for residents to be signed up to the EA flood warning system and act upon the advice including flood mitigation to properties and moving to stay with friends and family, so they are not stranded in their homes calling for help or walking to an area for the emergency services to support them. However, since the site is not a 'gated/managed' site, and the Flood Warning and Evacuation Plan is not enforceable since the EA Flood Warning System is an opt in and not an opt out system and many of the actions are in relation to individual residents; t therefore the plan is not workable. It was acknowledged by the agent within an email received on 30/09/2022 that the Evacuation Plan would need some amendments to improve its workability and it was suggested that a final plan could be secured by condition. However, this information is required pre-determination to ascertain if residual flood risk has been adequately addressed. However, it should be noted that as the scheme is for independent dwellings, it is unlikely that a flood evacuation plan would be effective.
- 9.85 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
- 9.86 Overall, whilst most of the application site is of low flood risk, the site is a 'dry island' surrounded by areas at risk of flooding. The proposed evacuation route, together with the evacuation plan are not deemed adequate to safely manage the residual flood risk. Therefore, the development is considered to be contrary to Paragraph 167(d & e) of the NPPF (2021), Part 6(c & e) of Policy NR1 of the Local Plan (2022) and RBMW's Strategic Flood Risk Assessment (2017).
- 9.87 **Sustainability**
- 9.88 The council's interim sustainability statement (March 2021) highlights that new dwellings 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.

9.89 The submitted energy statement highlights that the development will reduce carbon emission about 44% 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.

9.90 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 could 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 secure the financial contributions towards the carbon off-set fund, this will be included as a reason for refusal as at the time of writing a legal agreement in regard to this had not been secured. As such, as without a S106 the scheme is contrary to Policy SP2 and the Interim Sustainability Position Statement (2021).

9.91 **Open Space**

9.92 Policy IF4 (5) states that proposals for residential development on non-allocated sites of ten dwellings and above should normally provide new open space and play facilities in accordance with the quantity standards set out in Appendix F, or those within a more up to date Open Space Study. However, where there is clear evidence that there is a quantitative surplus of one or more types of open space/play facilities in the local area, these standards will be applied flexibly in order to address any local deficits.

9.93 Appendix F of the Local Plan states that proposals for dwellings between 11-200 units require Local Area of Play (LAP) and Local Equipped Area of Play (LEAP). The applicant within their planning statement highlight that the scheme proposes 1,372m² of public open space, which would provide informal recreation and provide green spaces around the proposed dwellings. Furthermore, formal play facilities have been omitted from the proposal as it has been deemed that this could detract from the rural nature of the site. Therefore, more naturalistic play features (such as boulder or log formations) would be more appropriate to the site and location have been recommended.

9.94 Based on the submitted documents it is not clear where the proposed public open space would be located within the development site and what the proposed naturalistic play features in relation to the LAP and LEAP would look like and where they would be sited. Furthermore, in the absence of a legal agreement to secure the LAP and LEAP's public provision, and positive management and maintenance of these features for the development's lifetime, there is no mechanism to secure this provision of quality open space within the development. As such, the proposal is contrary to Policy IF4 of the Local Plan (2022).

9.95 **Planning Balance and Conclusion**

9.96 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 up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

9.97 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'

9.98 The council has recently had its Borough Local Plan adopted. Following adoption the council can demonstrate that it has a 5-year housing land supply. Additionally the Council's Housing Delivery Test 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 'titled balance' does not apply.

9.99 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 liable to Flooding. In this instance, subsection d(i) of paragraph 11 is engaged as there is a clear reason for refusing the development proposed on grounds of Green Belt and Flood Risk, thus, the tilted balance would not apply.

9.100 Paragraph 148 of the NPPF (2021) 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

9.101 The development is considered to be inappropriate development within the Green Belt. In addition, the proposed development would impact upon the openness of the Green Belt and would result in significant harm to the openness. There is also 'other harm resulting from the proposal' as detailed below;

- Development's failure to adequately facilitate sustainable modes of transport;
- Failure to demonstrate that the development would not impact any potential archaeological remains on-site;
- Failure to meet the requirements of the council's interim sustainability position statement;
- The lack of provision for affordable housing, an appropriate housing mix and open space;
- Failure of the scheme to safely manage the residual flood risk and;
- The proposal would also adversely harm ecology on-site and;

9.102 There are benefits that weigh in favour of supporting the scheme. In this case, the scheme would provide 12 additional dwellings. Whilst this provides additional housing to the borough's housing stock, this is only given limited weight considering that the council currently has a 5-year land housing supply, and 12 dwellings is not a significant number of dwellings. The biodiversity net gain from the proposal is 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.

9.103 The benefits of the scheme are not considered to clearly outweigh the harm to the Green Belt which is afforded substantial weight, and the other harm identified. Therefore, it is not considered that very special circumstances exist which clearly outweigh the harm to Green Belt and the other harm identified. There are not any other material considerations which indicate that planning permission should be granted for this development.

10. COMMUNITY INFRASTRUCTURE LEVY (CIL)

10.1 The development is CIL liable and would be charged at a current rate of J295.20 per square metre.

11. APPENDICES TO THIS REPORT

Appendix A – Site Location Plan & Site 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 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 It has not been adequately demonstrated that the proposal would not have any implications on any potential archaeological remains on-site. Therefore, the scheme is deemed contrary to paragraph 194 of the NPPF (2021).

3 It has not been adequately demonstrated by the applicant the scheme would be in compliance with Policy HO3 of the Borough Local Plan (2022) in terms of the provision for affordable housing.

4 The development is not considered to promote and encourage travel by sustainable or active modes of travel. Therefore, the proposal is deemed to be in an unsustainable location, thus, it is contrary to Section 9 of the NPPF (2021) and Policy IF2 of the Borough Local Plan (2022)

5 The safe and egress details, together with the evacuation plan are not deemed adequate to safely manage the residual flood risk. Therefore, the development is considered to be contrary to Paragraph 167(d & e) of the NPPF (2021), Part 6(c & e) of Policy NR1 of the Borough Local Plan (2022) and RBMW's Strategic Flood Risk Assessment (2017). The safe and egress details, together with the evacuation plan are not deemed adequate to safely manage the residual flood risk. Therefore, the development is considered to be contrary to Paragraph 167(d & e) of the NPPF (2021), Part 6(c & e) of Policy NR1 of the Borough Local Plan (2022) and RBMW's Strategic Flood Risk Assessment (2017).

6 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 (2022) and The Interim Sustainability Position Statement (2021).

7 The proposal fails to meet the derogation test and it would have an adversely impact on ecology. Therefore, it is contrary Policy NR2 of the Local Plan (2022), and Part 1 of Regulation 9 of the Conservation of Habitats and Species Regulations (2017).

8 The proposed mix has is not reflective of the SHMA. Therefore, the development is contrary to Policy HO2 of the Local Plan (2022)

9 It has not been adequately demonstrated that the scheme would be in compliance with Policy IF4

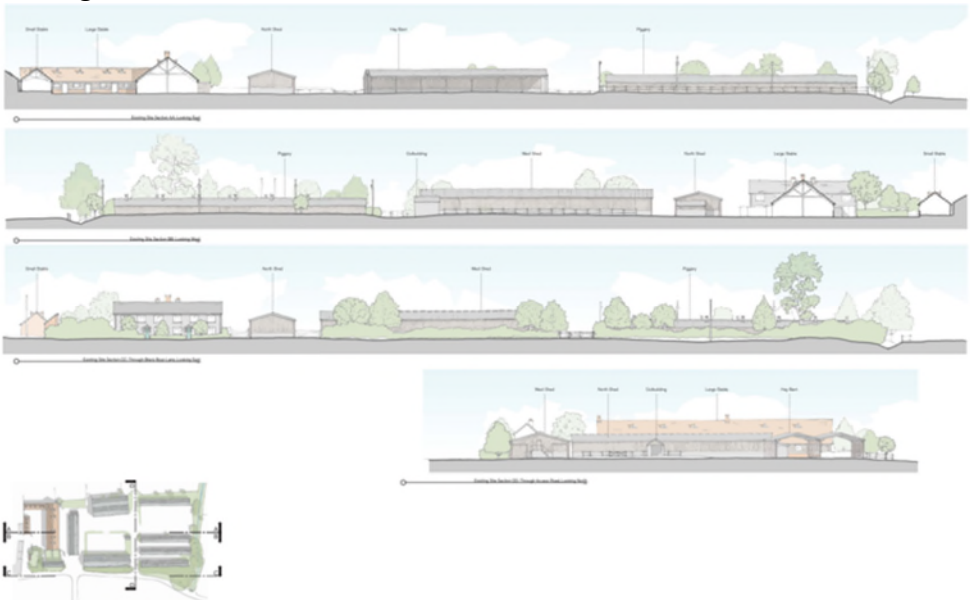
of the Borough Local Plan (2022) in terms of the provision open space.

Proposed Site Plan



Appendix B

Existing Site Sections



Proposed Site Sections







