

Our ref: DK/24031

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By email only
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Dear Stephanie

Planning application for the erection of a country house and gardens, stables courtyard, new highway accesses, solar array, drainage works and landscape proposals including a new lake

Land at E 437424 N 228877, Chipping Norton Road, Little Tew, Oxfordshire

Planning Application Ref: 24/01861/FUL

DK Planning & Development Ltd are instructed by the Little Tew Conservation Group to review the application proposals and respond to the Council on their behalf. We have read through all of the application submissions and visited Little Tew on 27th September 2024 to view the application site in relation to the village and its surrounding context.

The Conservation Group was formed with the primary objective being to promote the conservation of the natural and built environment of Little Tew and membership is open to all residents of the village.

The Conservation Group have recently raised objection, advised by Chadwick Town Planning, Bioscan (UK) Ltd and John Steel KC, to a proposal for a self-build dwelling on land northwest of Enstone Road, Little Tew (application ref: 24/01521/FUL). This application is yet to be determined. Nonetheless, the representations on behalf of the Conservation Group show a highly considered approach to proposals that seek to adversely affect the natural and built environment of Little Tew.

That same measured approach is displayed by the Conservation Group in response to the current application for a new country house off Chipping Norton Road. However, in this case the Conservation Group on legal and professional planning advice has chosen to concentrate on three highly specialised and extremely relevant topics that are often simply glossed over or misunderstood by local groups. Those topics are landscape, the impact on Little Tew SSSI and the ecological implications of the proposals. Specialist reports looking at each of these subjects prepared by MHP Design Ltd, Water Resource Associates and Bioscan (UK) Ltd respectively are submitted on behalf of the Conservation Group as part of their response in order to provide a well-informed view.

Our role is to bring the conclusions and comments found in the three reports together in the form of a planning response that you will, hopefully, find useful in your determination of the application.

The Conservation Group also note the plethora of written responses you have already received from local residents (including a very detailed letter written by Chadwick Town Planning on behalf of Max Richter and Yulia Mahr) and the Parish Meeting. The Group fully support and endorse the views contained in these responses, but for the reasons already stated and to avoid unnecessary duplication, their written response is tailored to concentrate on the three specialist topics as highlighted above. We do, however, stray into a few other areas of planning relevance which again we hope will assist with your deliberations.

Before we look at the current proposals, it is worth reminding ourselves of the very recent planning history on the application site which, we contend, is extremely relevant to the determination of the current application.

Planning History

The recent planning history of the planning application site ("the site") is a consideration of material planning importance.

On 15th December 2022, planning permission was refused by West Oxfordshire District Council for the construction on the site of a country house and gardens, stable courtyard, new highway accesses, solar array, drainage works and landscape proposals, including new lake on land at E 437424 N 228877, Chipping Norton Road, Little Tew, Oxfordshire (application ref: 22/01785/FUL).

Despite the inclusion of a myriad of plans, drawings, reports, proposed views and watercolours as well as support from other professionals within the application submissions, the application was refused for the following reason:

- 1 The proposal, comprising of a new country house set within formal gardens with the provision of various ancillary buildings and other development, including a staff flat, a swimming pool, a pool pavilion, storage areas, a new lake, stables with a courtyard and associated paddock land, a solar PV array and formal landscaping and gardens, by reason of its nature, siting, scale, massing, design and form, would fail to represent a development which is truly outstanding, inadequately reflecting the highest standards in architecture, nor helping to raise standards of design more generally in rural areas, and would be adversely urbanising and transformative in the landscape, failing to significantly enhance its immediate setting, or be sensitive to the defining characteristics of the local area. The development would also result in a medium level of less than substantial harm to the setting of the Little Tew Conservation Area. No discernible public benefits have been demonstrated to outweigh this harm identified. Assessing the scheme in the wider planning balance, the benefits of the proposal, which include the provision of a single private dwellinghouse and potential for biodiversity net gain, are not considered to outweigh the harm identified. As such, the proposal is contrary to policies OS2, OS4, H2, EH2, EH9 and EH10 of the West Oxfordshire Local Plan 2031, the relevant provisions of the National Planning Policy Framework; in particular paragraphs 11(d), 80 (e) and 202, the West Oxfordshire Design Guide and the Little Tew Conservation Area Appraisal.

Your written delegated report in connection with this application provides a thorough overview of the consultation responses and other representations received, relevant development plan policies and assessment of the salient planning considerations. In particular, the Council found that the proposal by reason of its nature, siting, scale, massing, design and form, would fail to represent a development which is truly outstanding; it would be adversely urbanising and transformative in the landscape, failing to significantly enhance its immediate setting, or be sensitive to the defining characteristics of the local area. In addition, the proposals would result in a medium level of less than

substantial harm to the setting of the Little Tew Conservation Area. In terms of the planning balance undertaken by the Council, it considered that the benefits of the proposal, which include the provision of a single private dwellinghouse and potential for biodiversity net gain, would not outweigh the harm identified. We see that none of the reasons for refusal were contested at appeal.

The application site covered an area of 4.37ha (10.8 acres) of existing farmland which at its closest point was some 215m from the closest dwelling (Rymans Cottage) in Little Tew. A copy of the submitted proposed Estate Master Plan is provided below.



[Copy of the Estate Masterplan included in the previous (refused) planning application ref: 22/01785/FUL]

In addition to the previous and current planning applications on the application site, as referred to above, Little Tew is also subject to a proposal for a self-build dwelling with ancillary development on land northwest of Enstone Road (application ref: 24/01521/FUL). For all intents and purposes this application proposes a further new dwelling outside of the recognised and accepted boundary of Little Tew.

The Current Proposals

The submitted Design Statement prepared by Francis Terry and Associates describes the proposals as a "Revised Scheme for Proposed House on Land West of Little Tew, West Oxfordshire Meeting the Requirements of Paragraph 84 (e) of the National Planning Policy Framework." In its simplest form the proposals are for a "Country House and Gardens, Stables Courtyard, New Highway Accesses, Solar Array, Drainage Works and Landscape Proposals, including New Lake and Tree Nursery" as described on the application form.

The application site covers an area of 4.37ha (10.8 acres) of existing farmland which at its closest point is some 215m from the closest dwelling (Rymans Cottage) in Little Tew. A

copy of the submitted proposed Estate Master Plan is provided over the page. It is, in fact, the exact same application site as was promoted and rejected in 2022.



[Copy of the proposed Estate Masterplan included in application ref: 24/01861/FUL]

It appears that the position, arrangement and layout of the individual elements of the proposed development (house, stables, accesses, formal gardens and lake) remain almost identical to those promoted in 2022 as does the use and proposed landscape of the wider grounds. The obvious changes seem only to relate to the design and appearance of the proposed buildings. This point is significant when we review some of the relevant planning considerations later in this submission.

Relevant Planning Policy

Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case, the relevant development plan document is the West Oxfordshire Local Plan, adopted in September 2018. There is no neighbourhood development plan for the area.

The Proposals Map accompanying the adopted Local Plan shows that the application site is in the open countryside outside the settlement of Little Tew, some 430m northwest of the boundary of the Little Tew Conservation Area and circa 150m north of the Little Tew Meadows SSSI.

The principal relevant Local Plan policies remain as you identified on page 7 of your written delegated report in connection with the 2022 application and as referred to in the reason for refusal of that previous application.

The Council is in the early stages of preparing a new Local Plan up to 2041. Consultation on preferred policy options (Regulation 18) is currently scheduled for October 2024 while publication of the pre-submission draft Local Plan (Regulation 19) is planned for March 2025. In our view, it is still too early in the process of preparing this new plan for it to have any material effect on the determination of the current application.

The West Oxfordshire Design Guide, adopted as a Supplementary Planning Document in April 2016, is clearly material to the determination of the application. The Oxfordshire Wildlife and Landscape Study 2004 together with the West Oxfordshire Landscape Character Assessment 1998 are also relevant.

The National Planning Policy Framework has been revised since the 2022 application. The latest version dated December 2023 contains the latest Government guidance on planning matters although there is currently an on-going consultation into proposed reforms to the NPPF and other changes to the planning system. Even so, there does not appear to be any suggested changes to paragraph 84 within the consultation draft.

Consideration of the Proposals

The Principle of Development and the Development Plan

Local Plan Policy OS2 'Locating development in the right places' refers to all types of development in the countryside. It reads:

POLICY OS2: Locating development in the right places

Main service centres, rural service centres and villages

A significant proportion of new homes, jobs and supporting services will be focused within and on the edge of the main service centres of Witney, Carterton and Chipping Norton. A number of site allocations are proposed to ensure identified needs are met. The distribution of development is set out in Policy H1.

Due to the size of the settlement and its proximity and connections to Oxford City, Eynsham will also make a significant contribution towards meeting the identified housing needs of the District and Oxford City with a strategic urban extension to be provided to the west of the village.

A new rural service centre - Oxfordshire Cotwolds Garden Village - will be created to the north of Eynsham to contribute towards Oxford City's needs. This will comprise a self-contained settlement based on 'garden village' principles and will play a complementary role to Eynsham.

Woodstock is suitable for a reasonable scale of development, whilst protecting its important historic character and the setting of Blenheim Palace, in order to deliver affordable housing, enhance local services and reinforce its role as a service centre.

Burford and Charlbury are relatively constrained by their AONB location and Bampton and Long Hanborough have a more restricted range of services and facilities. Consequently, these rural service centres are suitable for a modest level of development to help reinforce their existing roles. Two site allocations are proposed at Long Hanborough.

The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities. A number of site allocations are proposed to ensure identified needs are met. Further allocations may be made through Neighbourhood Plans.

Proposals for residential development will be considered in accordance with Policy H2 of this Local Plan.

Small villages, hamlets and open countryside

Development in the small villages, hamlets and open countryside will be limited to that which requires and is appropriate for a rural location and which respects the intrinsic character of the area.

Proposals for residential development will be considered under policy H2.

Proposals for non-residential development that is regarded as appropriate will include:

- Re-use of appropriate existing buildings which would lead to an enhancement of their immediate setting, with preference given to employment, tourism and community uses;
- Proposals to support the effectiveness of existing businesses and sustainable tourism;
- Development which will make a positive contribution to farm and country estate diversification; and
- Telecommunications development sited and designed to minimise impact upon the environment.

General principles

All development should:

- Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;
- Form a logical complement to the existing scale and pattern of development and/or the character of the area;
- Avoid the coalescence and loss of identity of separate settlements;
- Be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants;
- As far as is reasonably possible protect or enhance the local landscape and the setting of the settlement/s;
- Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;
- Be provided with safe vehicular access and safe and convenient pedestrian access to supporting services and facilities;
- Not be at risk of flooding or likely to increase the risk of flooding elsewhere;
- Conserve and enhance the natural, historic and built environment;
- Safeguard mineral resources;
- In the AONB, give great weight to conserving landscape and scenic beauty and comply with national policy concerning major development;
- In the Green Belt, comply with national policies for the Green Belt; and
- Be supported by all necessary infrastructure including that which is needed to enable access to superfast broadband

The application site is within the open countryside where Local Plan Policy OS2 limits development to that which requires and is appropriate for a rural location and which respects the intrinsic character of the area. We contend that the proposals satisfy neither of these requirements.

Proposals for residential development will be considered under Local Plan Policy H2 which we will refer to shortly. Before we do, Local Plan Policy OS2 contains a number of 'General principles' which must be satisfied before consideration of Policy H2 is engaged. Having looked at each of the General principles individually, we provide below a list of those principles which in our view the proposals do not accord with. Our explanation and reasoning can be found later in these submissions.

- Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;
- Form a logical complement to the existing scale and pattern of development and/or the character of the area;
- As far as is reasonably possible protect or enhance the local landscape and the setting of the settlement/s;
- Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;
- Conserve and enhance the natural, historic and built environment;
- Safeguard mineral resources;

In our view, the proposals do not accord with the requirements of six of the 13 General principles contained within Policy OS2. That being the case, the proposals are indisputably contrary to Policy OS2 and so Policy H2 is unable to be engaged. In our opinion, the principle of development is contrary to Local Plan Policy OS2.

However, for completeness we have also looked at the relevant section of Local Plan Policy H2 'Delivery of new homes' which reads as follows:

POLICY H2: Delivery of New Homes

Small villages, hamlets and open countryside

New dwellings will only be permitted in the small villages, hamlets and open countryside where they comply with the general principles set out in Policy OS2 and in the following circumstances:

- where there is an essential operational or other specific local need that cannot be met in any other way, including the use of existing buildings. Where appropriate, new homes provided (other than replacement dwellings) will be controlled by an occupancy condition linked to the operational need and/or to the 'rural exception site' approach for permanent affordable dwellings;
- where residential development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of a heritage asset;
- residential development of exceptional quality or innovative design;
- new accommodation proposed in accordance with policies specifically for travelling communities;
- accommodation which will remain ancillary to existing dwellings*;
- replacement dwellings on a one for one basis;
- re-use of appropriate existing buildings which would lead to an enhancement of their immediate setting and where it has been demonstrated that the building is not capable of re-use for business, recreational or community uses, tourist accommodation or visitor facilities or where the proposal will address a specific local housing need which would otherwise not be met; and
- on sites that have been allocated for housing development within an adopted (made) neighbourhood plan.

* Proposals for extensions or alterations to an existing dwelling to create a self-contained unit of accommodation may be subject to a condition ensuring the accommodation remains ancillary to the main dwelling.

Of the eight circumstances specified within Local Plan Policy H2 (as listed in the bullet points above), it is clear that the proposals do not involve development that accords with the first two or the last five bullet points. The remaining potentially relevant circumstance is where the proposals involve residential development of exceptional quality or innovative design.

The proposals are plainly not of an innovative design. Moreover, the Conservation Group (including one of its members who is an architect) is adamant that it is also not of exceptional quality in that it is not truly outstanding reflecting the highest standards in architecture and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the area.

In our view, the proposals do not accord with any of the eight circumstances specified within Local Plan Policy H2.

It is abundantly clear that Local Plan Policies OS2 and H2 will not support the nature and extent of the proposals contained within the current application. The proposals are, therefore, in principle, contrary to the development plan.

The Relevance of Paragraph 84 of the NPPF

Since it is the basis of the application submissions, we now address the relevance of paragraph 84 of the NPPF. Before we do so, we acknowledge that this has already been the subject of detailed submissions by others, notably Chadwick Town Planning and the Parish Meeting, and it is also not one of the three topics mentioned earlier.

The NPPF is a material consideration in the determination of the current application and at paragraph 84 it provides a number of possible exceptions to the normal presumption against the provision of isolated homes in the countryside. Paragraph 84 reads as follows:

84. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the sub-division of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
 - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.

Prior to considering whether the proposals comprise one or more of the exceptions (a-e) it is necessary to consider whether the proposals amount to the provision of an isolated home in the countryside. If they do not, then the exceptions are irrelevant.

In 2018, the Court of Appeal considered the meaning of the expression “new isolated homes in the countryside” as it then appeared in paragraph 55 of the NPPF 2012 in *Braintree District Council v Secretary of State for Communities and Local Government* [2018] EWCA Civ 610, [2018] 2 P. & C.R. 9. More recently, in 2021 the Court of Appeal considered the meaning of the phrase “isolated homes in the countryside” as it appeared in paragraph 79 of the NPPF 2018 in *City & Country Bramshill Limited v Secretary of State for Housing, Communities and Local Government and Ors* [2021] EWCA Civ 320, [2021] 1 WLR 5761.

In paragraph 32 of the Bramshill judgement, Sir Keith Lindblom set out the legal position as follows:

32. There is, therefore, no need for any further discussion of what is meant by the concept of “isolated homes in the countryside” in this policy. The essential conclusion of this court in *Braintree District Council*, in paragraph 42 of the judgment, is that in determining whether a particular proposal is for “isolated homes in the countryside”, the decision-maker must consider “whether [the development] would be physically isolated, in the sense of being isolated from a settlement”. What is a “settlement” and whether the development would be “isolated” from a settlement are both matters of planning judgment for the decision-maker on the facts of the particular case. This understanding of the policy, in its context, is not disturbed by what Lewison L.J. had earlier said in *Dartford Borough Council* (at paragraph 15). His observation was obiter, as was my comment about it in *Braintree District Council* (at paragraph 38). No conflict of authority exists between the decisions in those two cases.

It is clear to us that it is isolation from a settlement, in this case Little Tew, that is the correct test to apply in paragraph 84 of the NPPF rather than isolation from a dwelling.

There appears to be agreement amongst objectors, yourself and Counsel that acted for the previous applicants in 2022 that Ryman's Cottage is within and represents the northwest edge of the settlement of Little Tew and is, therefore, the closest point to the current proposals from which isolation should be assessed.

There is some disagreement, however, as to the specific element of the proposals that should be assessed. Counsel in 2022 considered that it should be the actual house. Others deem it to be the boundary of the application site. In *Braintree*, Sir Keith Lindblom refers to “the development” which in the case of the current proposals includes the house, stables, accesses, formal gardens and the lake. In our view, it is correct to consider the proposals in their totality as they collectively form the proposed home.

We estimate the distance from the proposed development (the application site boundary) to the settlement of Little Tew (Ryman's Cottage) is circa 215m, that is roughly the length of two football pitches. In our opinion, such a distance cannot reasonably be considered to be ‘far away from’ or ‘remote from’ the settlement. Accordingly, we do not consider the proposals amount to the provision of an isolated home in the countryside.

Given our conclusion above, the exceptions (a-e inc.) contained in paragraph 84 of the NPPF are irrelevant to the determination of the application. We need not, therefore, consider the exceptions any further. However, again or reasons of completeness, we do look briefly at the exceptions noting that those listed at paragraph 84 (a-d inc.) are simply not relevant.

Paragraph 84(e) requires the design of an isolated home to be of exceptional quality. We have already said that the Conservation Group (including one of its members who is an architect) is adamant that are not truly outstanding reflecting the highest standards in architecture and they would not significantly enhance its immediate setting and be sensitive to the defining characteristics of the area.

We now look at a number of matters that lead us and the Conservation Group to the conclusions reached above.

Landscape Considerations

A Landscape Review Technical Note prepared by Paul Harris of MHP Design Ltd, Chartered Landscape Architects, forms an integral part of these submissions on behalf of the Conservation Group. Mr Harris prepared a review of landscape and visual matters arising from the previous 2022 proposals and so is familiar with the site and its contextual landscape. He has also reviewed the supporting documentation accompanying the current application, particularly the Landscape and Visual Impact Assessment (LVIA) prepared by Gain Consulting Limited.

Mr Harris was critical of the previous application for not being supported by an LVIA. However, the LVIA prepared to support the current application has, he believes, a number of significant shortcomings not least because it appears that its role is simply to justify the current proposals rather than to take the opportunity to inform the approach to a new design.

Looking at the detail, it is noted that the LVIA says that the site lies about 1 km northwest of the village of Little Tew, which is plainly not correct.

As identified in the LVIA, the Oxfordshire Wildlife and Landscape Study (OWLS) together with the West Oxfordshire Landscape Character Assessment identify similar characteristics for the area within which the site is located. Mr Harris summarises these as being "deeply rural, agricultural landscapes that are generally more contained within the lower valley but potentially open and exposed on ridges and elevated land creating a distinctive landscape that is intact and important to the setting of the distinctive small scale settlements such as Little Tew." (paragraph 21 of the Technical Note).

Appendix A of the Technical Note contains photographs from various viewpoints along the closest public rights of way, principally to the south of the application site. These photographs show the elevated, open and exposed nature of the application site, which is readily visible in panoramic views, some of which include parts of the village, from a host of public vantage points. The footpaths, bridleways and lanes from which the photographs are taken are some of the routes that we walked when we visited Little Tew on 27th September. The current agricultural use of the site and land adjoining it was obvious to us on our visit.

The LVIA attempts to argue that the landscape across the site is a "Low grade, low quality agricultural landscape." Mr Harris clearly disagrees with this description because of the intact condition of the landscape, its distinctiveness and its representativeness of the published landscape character types that inform the character of the local landscape at Little Tew. Our review of the large scale, 1:250 000 Series Agricultural Land Classification

Maps produced by Natural England suggests the land to the northwest of Little Tew is of good to moderate quality.

The LVIA also gives weight to one of the key strategies in the OWLS to safeguard, maintain and enhance the characteristic landscape features of the existing parklands in order to support the creation of a new area of parkland. However, as Mr Harris points out, the strategy refers to existing parklands. It does not give a 'green light' to establish new parklands. In any event, as Mr Harris further explains at paragraph 32 of the Technical Note, "Introducing views of a house and its parkland into a landscape distinctive for its exposed, sparsely settled rural characteristics would be harmful ..."

Mr Harris also explains that this harm will be exacerbated by the inevitable introduction of artificial lighting which will lead to the development being more noticeable, particularly at night, as well as a reduction in the quality of the dark skies in an area of existing very dark night sky.

Mr Harris provides much more analysis and explanation of his opinions within the Technical note, all of which are summarised in the Conclusion on page 12 and reproduced below.

52. The application has been supported by a comprehensive Landscape and Visual Impact Assessment but the opportunity has not been taken to reconsider the design to address harm to the character and appearance of the landscape identified in the previously refused scheme. The LVIA assess the value of the agricultural landscape to be low and the landscape and visual effects of seeing a new country house and its formal landscape as beneficial. This is a flawed approach that ignores the distinctiveness of the local landscape character and the magnitude of harmful change that would result from its loss.
53. My initial assessment based has identified that the scale and nature of the development will result in substantial landscape harm through the loss of rural openness and agricultural character. The landscape character of the site forms a part of the wider agricultural landscape that reflects the published desirable characteristics that inform the setting of the wider dispersed rural settlement. This harm cannot be mitigated through the extensive tree planting proposed as part of the application.
54. The site is on an open and prominent location on the valley slope and the proposed main house has been located in a commanding position within a parkland landscape intended to frame a broad vista to the south over the valley. This increases the visual prominence of the main building to visual receptors to the south, south west and south east. These receptors include users of the bridlepaths and public rights of way who are sensitive to changes in existing rural views. The visual effects on these receptors I assess to result in significant visual harm through the introduction of a prominent settlement features into an otherwise simple and unspoilt rural landscape.
55. The scale and nature of the proposed stable buildings are also assessed to be potentially visually prominent from the adjoining road and to residents local to the Site. Although mitigation planting is likely to reduce views of new structures over time, the proposed tree planting will create a fundamental change to the character of the views enjoyed along the road corridor.
56. Although the landscape is not designated or identified as a 'valued landscape' I have assessed it to be of medium to high sensitivity due to its distinctive rural character, its intactness and its importance in informing the setting of the dispersed small scale, rural settlement. Any development of a greenfield site will give rise to harm but the landscape and visual harm I assess will result from the development proposals and

scale of change is substantial and passes above a threshold of acceptable harm in my opinion. I therefore consider the proposals to conflict with both national and local policies that seek to conserve the character and appearance of the countryside. It is my view that considerable weight should be given to this landscape and visual harm when weighed with other considerations in the overall planning balance.

Local Plan Policy EH2 'Landscape character' reads as follows:

POLICY EH2:
Landscape character

The quality, character and distinctiveness of West Oxfordshire's natural environment, including its landscape, cultural and historic value, tranquillity, geology, countryside, soil and biodiversity, will be conserved and enhanced.

New development should conserve and, where possible, enhance the intrinsic character, quality and distinctive natural and man-made features of the local landscape, including individual or groups of features and their settings, such as stone walls, trees, hedges, woodlands, rivers, streams and ponds. Conditions may be imposed on development proposals to ensure every opportunity is made to retain such features and ensure their long-term survival through appropriate management and restoration.

Proposals which would result in the loss of features, important for their visual, amenity, or historic value will not be permitted unless the loss can be justified by appropriate mitigation and/or compensatory measures which can be secured to the satisfaction of the Council.

Proposed development should avoid causing pollution, especially noise and light, which has an adverse impact upon landscape character and should incorporate measures to maintain or improve the existing level of tranquillity and dark-sky quality, reversing existing pollution where possible.

Special attention and protection will be given to the landscape and biodiversity of the Lower Windrush Valley Project, the Windrush in Witney Project Area and the Wychwood Project Area.

In our view, supported by the analysis and conclusions provided in the Landscape Review Technical Note prepared by Paul Harris of MHP Design Ltd, the current application proposals fail to comply with most, if not all, of the requirements of Local Plan Policy EH2.

Potential Hydrological Impacts on the Little Tew Meadows SSSI

Only 150m from the boundary of the application site is the Little Tew Meadows SSSI – a nationally important area of 40.01ha of species rich unimproved grassland centred on the channel of the River Dorn.

As a consequence of the Natural Environment and Rural Communities Act 2006 (as amended) the Council has a duty to conserve and enhance biodiversity.

Paragraphs 186-188 of the NPPF set out the principles for determining applications impacting on Sites of Special Scientific Interest and habitats sites. Both the direct and indirect impacts of the development should be considered. Paragraph 186 reads:

186. When determining planning applications, local planning authorities should apply the following principles:
- (a) 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;
 - (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Local Plan Policy EH3 deals with the protection and enhancement of biodiversity. It explains that nationally important sites of special scientific interest are given the highest level of protection from any development that will have an adverse impact.

POLICY EH3:
Biodiversity and geodiversity

The biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity and minimise impacts on geodiversity, including by:

- giving sites and species of international nature conservation importance and nationally important sites of special scientific interest the highest level of protection from any development that will have an adverse impact;
- requiring a Habitats Regulations Assessment to be undertaken of any development proposal that is likely to have a significant adverse effect, either alone or in combination, on the Oxford Meadows SAC, particularly in relation to air quality and nitrogen oxide emissions and deposition;
- protecting and mitigating for impacts on priority habitats, protected species and priority species, both for their importance individually and as part of a wider network;
- avoiding loss, deterioration or harm to locally important wildlife and geological sites and sites supporting irreplaceable habitats (including ancient woodland, Plantations on Ancient Woodland Sites and aged or veteran trees), UK priority habitats and priority species, except in exceptional circumstances where the importance of the development significantly and demonstrably outweighs the harm and the harm can be mitigated through appropriate measures and a net gain in biodiversity is secured;
- ensuring development works towards achieving the aims and objectives of the Conservation Target Areas (CTAs) and Nature Improvement Areas (NIAs);

- promoting the conservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species populations, particularly within the CTAs and NIAs;
- taking all opportunities to enhance the biodiversity of the site or the locality, especially where this will help deliver networks of biodiversity and green infrastructure and UK priority habitats and species targets and meet the aims of CTAs;
- ensuring that all applications that might adversely affect biodiversity are accompanied by adequate ecological survey information in accordance with BS 42020:2013 unless alternative approaches are agreed as being appropriate with the District Council's ecologist;
- all major and minor applications demonstrating a net gain in biodiversity where possible. For major applications this should be demonstrated in a quantifiable way through the use of a Biodiversity Impact Assessment Calculator (BIAC) based on that described in the DEFRA Biodiversity Offsetting guidance or a suitably amended version. For minor applications a BIAC will not usually be required but might be requested at the Council's discretion;
- all development incorporating biodiversity enhancement features.

All developments will be expected to provide towards the provision of necessary enhancements in areas of biodiversity importance.

Accompanying paragraph 8.22 in the Local Plan explains that "Development proposals directly or indirectly affecting these and other ecologically important areas will need to be appropriately assessed and follow the mitigation hierarchy of avoidance, mitigation and compensation. As such, developments will be expected to ensure that any potential harm is avoided."

Forming part of these submissions of the Conservation Group is an informative and detailed report on the hydrology of the Little Tew Meadows SSSI prepared by Water Resource Associates – an environmental consultancy with knowledge and experience of hydrology in this area. The report explains the nature of the River Dorn channel as it passes through

the SSSI, the pattern and extent of existing flow pathways within the catchment area of the river together with its underlying geology and soils. It further describes how all of these factors are interrelated and combine to create the rare vegetation, habitats and ecological diversity across the meadows.

The report notes the potential adverse impacts of the proposals on the SSSI arising during the construction and operational phases together with the paucity of the information and analysis of likely effects provided within the application documentation. A number of very important documents are simply missing from the current application, which at the very least should be provided to allow the Council to fulfil its duty.

We note that Natural England has recently issued a response to the Council in connection with the concurrent application for a new self-build dwelling on land to the land northwest of Enstone Road requiring the provision of further information to determine the significance of potential impacts on the SSSI and the scope for mitigation. We suspect that a similar response will shortly be forthcoming from Natural England in connection with the current application. Moreover, the reaction of Natural England to the nearby application is indicative that the report prepared by Water Resource Associates is well informed and accurate in its assessment of the lack of necessary information.

We also note that the cumulative and long-term impacts on hydrology within and around the SSSI may not become apparent for many years, after which it will be too late to reverse a decision on the current application if such a decision is taken in haste.

In the absence of the provision of the documents suggested by Water Resource Associates and, therefore, the lack of a full understanding of potential adverse impacts on the SSSI, the Council must adopt a precautionary approach and apply its stated mitigation hierarchy by rejecting the current application on the basis of it being contrary to Local Plan Policy EH3 and paragraph 186 of the NPPF.

Your written delegated report in connection with the 2022 application notes that the submitted information on biodiversity was lacking and would have been sought if the overarching refusal reasons did not apply. As stated above, we believe the Council must adopt a precautionary approach in connection with the potential adverse impacts of the current proposals on the SSSI and refuse the current application on biodiversity grounds, as well as other grounds, if the necessary information is not available.

Ecological Implications of the Proposed Development

In addition to the report on the hydrology of the Little Tew Meadows SSSI prepared by Water Resource Associates, these submissions also include a thorough and detailed review of the ecological implications of the proposals prepared by Bioscan (UK) Ltd.

Bioscan's comprehensive report contains a helpful four-page Executive Summary on pages 3-6 (inc.) which provides an overview of their findings and conclusions. For convenience, we have listed them below.

There are significant and serious omissions and factual errors within the surveys underpinning the EcIA, BNG Assessment and calculations, mapping and condition sheets.

Consequently, the ecological impact assessment and BNG calculation etc. are unreliable.

Strong evidence exists that the nature conservation interest of a grassland field (identified as a Priority Lowland Meadow habitat on the 'Magic' website) has been substantially and actively denuded over the last 5-7 years.

Restoration of this grassland field should be a minimum requisite and not count as part of the proposals BNG enhancements.

Insufficient consideration is given in the application assessments to the risks posed by the proposals to the SSSI.

The above is a significantly abridged version of Bioscan's findings and conclusions, but it provides a sufficient overview for our purposes. It is, however, beneficial to refer to the Bioscan report for a full understanding of their investigations and concerns. Bioscan conclude that "...the applicant's supporting information on ecology is in parts erroneous, in parts deficient, and overall, wholly unreliable for decision making."

The Bioscan assessment is particularly damning and seriously worrying in terms of the extent, quality and robustness of the application submissions. Of course, the duty on the Council along with Local Plan Policy EH3 and NPPF paragraphs referred to earlier apply equally to ecological matters as they do to the hydrology of the SSSI.

Given the criticisms levelled at the existing surveys/assessments and in the absence of the provision of the documents suggested by Bioscan, the Council must adopt a precautionary approach and apply its stated mitigation hierarchy and reject the current application on the basis of it being contrary to Local Plan Policy EH3 and paragraph 186 of the NPPF. As Bioscan conclude in paragraph 8.7 of their report "In short, the submission material on ecology is subject to serious omission, error and deficiency which, independently and collectively, provide no confidence that the scheme is, or can be made policy compliant." [our emphasis]

There are significant and serious deficiencies with the application's ecological material and inherent claims that require substantial additional work to the extent that seeking supplementary information will be highly confusing to those involved in assessing the proposals and in all likelihood contradictory with the current submissions. In our view, the only recourse is to refuse the current application.

Turning now to biodiversity net gain (BNG), we see that the potential for this was viewed as a positive factor in the determination of the application in 2022. Bioscan have looked carefully at the BNG material submitted as part of the current application documentation and provide a rigorous assessment and critique of it in their report which concludes at paragraphs 5.4.11 and 5.4.12, as follows:

5.4.11 In conclusion, the BNG Metric that has been submitted to West Oxfordshire District Council is subject to clear and significant error and cannot be relied upon for planning determination purposes. It overlooks and thereby masks an episode of very recent degradation of high value ('very high distinctiveness') unimproved grassland habitat, an action that appears broadly coeval with recent development ambitions for the land. It also classifies the entirety of the on-site grasslands, in their baseline state, as no better than a neglected sports pitch in character, condition and value and seeks to secure a positive BNG score via no more than modest enhancements to such low-quality habitat. The evidence in fact indicates that the grasslands are already of higher importance and condition than this, and that a significant proportion of them were once a very high value habitat which has been subject to recent degradation and fragmentation. Correction of the baseline errors will also therefore require that the scale of ambition (and the resources to achieve it) will need to be elevated. The guidance around accounting for recently degraded habitats so as not to reward prejudicial actions by landowners or developers thus also readily applies in this case.

- 5.4.12 For all of the above reasons, a far more accurate and (where necessary) realistic and precautionary BNG assessment is required from the applicant. There needs to be a greater commitment to genuine, realistic and achievable on and off-site enhancements, greater confidence that these will be delivered given the land-use history here and (as a pre-requisite) a commitment to restore all of the damage recently done. In the absence of such things, the proposals cannot be taken as compliant with either statute or national and local planning policy around BNG requirements.

Given the significant identified deficiencies in the calculation of BNG, together with the likelihood that even a corrected BNG calculation is unlikely to exceed the minimum statutory requirement (10% net gain), the applicant's ability to rely on BNG to represent a positive factor in the determination of the current application is wholly misplaced.

Heritage Considerations

The application site is some 430m northwest of the boundary of the Little Tew Conservation Area.

Paragraph 208 of the NPPF says that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use." This requirement is repeated in Local Plan Policy EH9 which deals with the historic environment and designated heritage assets.

In this case, Local Plan Policy EH10 Conservation Areas is particularly relevant. It states:

POLICY EH10:
Conservation areas

Proposals for development in a Conservation Area or affecting the setting of a Conservation Area will be permitted where it can be shown to conserve or enhance the special interest, character, appearance and setting, specifically provided that:

- the location, form, scale, massing, density, height, layout, landscaping, use, alignment and external appearance of the development conserves or enhances the special historic or architectural interest, character and appearance of the Conservation Area;
- the development conserves or enhances the setting of the Conservation Area and is not detrimental to views within, into or out of the Area;
- the proposals are sympathetic to the original curtilage and pattern of development and to important green spaces, such as paddocks, greens and gardens, and other gaps or spaces between buildings and the historic street pattern which make a positive contribution to the character in the Conservation Area;
- the wider social and environmental effects generated by the development are compatible with the existing character and appearance of the Conservation Area; and
- there would be no loss of, or harm to, any feature that makes a positive contribution to the special interest, character or appearance of the Conservation Area, unless the development would make an equal or greater contribution.

Applications for the demolition of a building in a Conservation Area will only be permitted where it has been demonstrated that:

- the building detracts from or does not make a positive contribution to the special interest, character or appearance of the Conservation Area; or
- the building is of no historic or architectural interest or is wholly beyond repair and is not capable of beneficial use; and
- any proposed replacement building makes and equal or greater contribution to the special interest, character or appearance of the Conservation Area.

Wherever possible the sympathetic restoration and re-use of buildings that make a positive contribution to the special interest, character and appearance of a Conservation Area will be encouraged, thereby preventing harm through the cumulative loss of features which are an asset to the Conservation Area.

We have read the Heritage Impact Assessment prepared by Worlledge Associates and also the Heritage Review prepared by Asset Heritage Consulting, both of which form part of the application documentation. In short, they conclude that there is no harm arising as a consequence of the proposals in relation to heritage assets, namely the Little Tew Conservation Area.

We note, however, that in refusing the 2022 application, the Council considered that the proposals would result in a medium level of less than substantial harm to the setting of the Little Tew Conservation Area.

As we said earlier, it appears that the position, arrangement and layout of the individual elements of the proposed development (house, stables, accesses, formal gardens and lake) remain almost identical to those promoted in 2022 as does the use and proposed landscape of the wider grounds. The obvious changes seem only to relate to the design and appearance of the proposed buildings. This lack of any material change suggests that the Council's view on the impact on the setting of the Little Tew Conservation Area should not alter from that concluded two years ago.

The Conservation Group remain resolute in their condemnation of the proposals due to the adverse impact on the setting of the village conservation area, not simply in visual terms when viewed from across the Dorn valley and from the lane between the Meetings and the northwest edge of Little Tew, but also in respect of the nature of the activity that will be introduced particularly as observed and experienced from the bridleway immediately to the southeast of the application site.

In 2022, the provision of a single dwelling together with potential for biodiversity net gain were considered to be possible public benefits but they were not considered to outweigh the harm caused to the setting of the conservation area. No other public benefits were identified. We have already commented on the applicant's inability to rely on BNG to represent a positive factor in the determination of the current application which solely leaves the provision of a single dwelling and its contribution to the Council's 5 year housing land supply.

As a result, it is our view that the harm to designated heritage assets as previously identified by the Council will not be outweighed by any public benefits as required by Local Plan Policy EH9 and the NPPF.

Summary

We have demonstrated that the proposals do not accord with Local Plan Policies OS2 and H2 within the development plan. This is also the view of the Council as expressed in 2022 and the view of the applicant given the nature of their planning case which relies wholly on the exception found at paragraph 84(e) of the NPPF.

We do not consider the proposed country house amounts to the provision of an isolated home in the countryside. As a result, the exceptions contained in paragraph 84 of the NPPF are irrelevant to the determination of the application.

It is the Conservation Group's view that the design is inappropriate, contrary to the requirements of the West Oxfordshire Design Guide and is far from being truly outstanding, reflecting the highest standards in architecture.

The analysis and conclusions provided by Paul Harris of MHP Design Ltd demonstrate that the proposals run contrary to the requirements of Local Plan Policy EH2 on Landscape character.

The findings and conclusions of our hydrology and ecology experts are extremely worrying and provide us with little confidence that the correct level, extent and quality of assessment has been undertaken by the applicants. To compound matters, the application site sits some 150m from the Little Tew SSSI where a thorough and rigorous assessment of likely impacts is not only essential but demanded at all levels of planning policy. In the absence of such an assessment and other notable failings, the Council must apply the precautionary approach and the application should be rejected on biodiversity grounds.

The significant identified deficiencies in the calculation of BNG, together with the likelihood that even a corrected BNG calculation is unlikely to exceed the minimum statutory requirement (10% net gain), the applicant is unable to rely on BNG to represent a positive factor in the determination of the current application.

We have also noted that the proposals will be contrary to the Local Plan and the NPPF in respect of the harm caused to designated heritage assets, which will plainly not be outweighed by any public benefits.

Returning to the wording of paragraph 84(e) since it is basis of the application submissions and fundamental to considering the principle of the proposed development, it is abundantly clear that the proposals will not significantly enhance its immediate setting and/or be sensitive to the defining characteristics of the area. In fact, the exact opposite is true.

We trust that these representations submitted on behalf of the Little Tew Conservation Group will be fully taken into account in the determination of the application for the proposed country house. Naturally, if you require any further information or clarification of anything we have said above, please contact David Keyte on 01453 798390 or david@dkplanning.co.uk.

Yours faithfully



DK Planning & Development Ltd

Encs

cc The Little Tew Conservation Group