



PLANNING COMMITTEE

11 FEBRUARY 2021

SUPPLEMENTARY PAPERS

TO: ALL MEMBERS OF THE PLANNING COMMITTEE

The following papers have been added to the agenda for the above meeting.

These were not available for publication with the rest of the agenda.

Kevin Gibbs
Executive Director: Delivery

Page No

Planning Applications

(Head of Planning)

**The conditions for public speaking have been met in the applications marked 'PS'.
For further information or to register for public speaking, please contact Customer
Services 01344 352000.**

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| <p>5. PS 19/00497/FUL LAND NORTH OF HERSCHEL GRANGE,
WARFIELD STREET, WARFIELD</p> <p>Erection of 33 dwellings (including 10 affordable dwellings), with car parking, landscaping, open space and access from Herschel Grange, following demolition of 6 Herschel Grange.</p> | <p>11 - 50</p> |
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Agenda Annex

BRACKNELL FOREST BOROUGH COUNCIL
PLANNING COMMITTEE
11th February 2021
SUPPLEMENTARY REPORT

Correspondence received and matters arising following preparation of the agenda.

Item No: 5
19/00497/FUL

Land North Of Herschel Grange Warfield Street Warfield Bracknell Berkshire

REPRESENTATIONS RECEIVED

Warfield Parish Council

A further response has been received from Warfield Parish Council recommending refusal of the application for the following reasons:

The original objections of the council remain in that the application:

- Is outside of the existing defined settlement in the countryside
- Is overdevelopment of the site and out of keeping with the area
- There are concerns regarding additional traffic in the area following the approval of the land north of Newhurst Gardens
- The proposal is urbanisation of designated character area
- The proposal has impact on local open space

In addition to these comments, the council notes that:

- The amenity space in the amendment is smaller than that of the original proposal
- The location of the foul water pumping station next the amenity space is unappealing
- Contrary to BFC policy, back gardens across the site back onto wildlife corridors and open space
- The proposed oak tree planting at plot 15 is inappropriate for the size of garden
- The original officers report notes that the proposals go against policy CS9, BFBLP 'Saved' Policy EN8 and 'Saved' Policy H5. The council considers that the proposal does not deliver sustainable development as required by paragraph 9, 11 and 16 of the National Planning Policy Framework (NPPF);
- The proposal undermines the principles of neighbourhood plan making in Warfield in the period to 2026 by being premature to the Warfield Neighbourhood Plan, which has reached an advanced stage in its preparation and which is empowering local people to shape their surroundings by setting out a positive vision for the future of their area, and so is contrary to NPPF paragraphs 15 and 28 to 30.
- The development goes against policy WNP1 of the emerging WNP. A Spatial Strategy for the Parish indicates that development proposals beyond the identified boundaries of Newell Green, Warfield Street and Hayley Green will only be supported if they are 'appropriate forms of development and they are consistent with development plan policies relating to the historic environment, heritage assets, landscape character, protecting the natural environment and where they will not compromise the delivery of the green infrastructure network'.
- Recent appeals mean we contend the original view of the planning officer that the Neighbourhood Plan carries no material weight in its consideration of the application and could not therefore be used as a reason for refusal.

NPPF para 49 establishes the limited circumstances in which a planning application may be considered premature:

"49. However in the context of the Framework - and in particular the presumption in favour of sustainable development - arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

1. The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
2. The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area."

The parish council is of the view that the scale and location of this development is significant to this area and undermines the WNP and that the emerging plan being at examination is at an advance stage. The council would draw attention to appeal APP/H1705/W/20/3248187 Land on the South and South East side of Harts Lane, Burghclere, Hampshire which demonstrated that the principle of prematurity is integral to ensuring the effectiveness of a plan-led system.

ADDITIONAL OBJECTIONS/REPRESENTATIONS

Eleven further objections have been received from local residents bringing the total number to 56 (including those submitted on behalf of the WVAG) from 33 addresses. [Note: these figures are slightly at odds with those contained in the Committee report however are now accurate].

The issues raised are included in those identified in para. 9.3 of the report, but also include:

- concern about the previous decision of the Planning Committee in December 2019
- the Council can now demonstrate a 5 year housing land supply which was not the case at the time of the Newhurst Gardens appeal decision
- lack of meaningful boundary landscaping
- 30% increase in scale of settlement, following approval of 2,200 houses south of Warfield Street and 50 houses at Newhurst Gardens will be unacceptable overdevelopment of small, linear, unique character village
- housing delivery currently 99% so no need for development
- unsustainable location as unknown when planned future amenities will be available
- promised areas of planting and hedgerows within existing development failed to materialise
- issues relating to bin storage within visitor parking areas serving Herschel Grange
- land is outside SA9 allocation whereby Warfield is taking more than its fair share of housing
- infrastructure can't support more development
- contrary to Policy CS2
- contrary to spatial policy of Warfield Neighbourhood Plan as there is insufficient evidence that the development is 'appropriate' within the terms of this policy
- contrary to Policies EN8 and H5
- proposed amenity space is too small and poorly sited
- in conjunction with houses proposed for Maize Lane/Priory Lane site and at Newhurst Gardens, will have significant impact on traffic flow down Warfield Street
- precedent for further housing development in this rural gap
- height of development at 2.5 storeys not consistent with edge of settlement location (there is also reference to the houses being 3 storey and this being inappropriate)
- intervisibility with, and harm to setting and significance of Grade II Listed Warfield House
- tight bend into site in conjunction with narrow road makes road infrastructure unsuitable to serve the traffic that will be generated and use of the access will cause noise and disturbance to local residents.

A letter has also been received from the Bracknell Forest Society which states:

"Although the Society has on balance not objected to this Amended Proposal off Herschel Grange, it was a finely balanced decision we would urge the Planning Committee Members to consider the complicated issues this proposal raises very carefully. We understand the reasons for the strongly held views of the members of the Warfield Village Action Group (WVAG) and local residents, and would be supporting them in their opposition if it had not been for the planning history on the site and surrounding land, and the draft local plan status of the land.

We would therefore urge Members not simply to 'rubber stamp' the Planning Officer's recommendation to grant this proposal, but to give rigorous consideration to the representations of local people and the WVAG, and to the complex issues raised by the proposal".

In addition, a further letter including appendices has been sent to Planning Committee Members on behalf of the Warfield Village Action Group (WVAG). The Chair of the WVAG has requested that this document also be included as part of this Supplementary Report and a copy is hereby appended. Please note that one of the appendices referred to is the letter from Richard Buxton Solicitors dated 15th June 2020 which is already included as Appendix 3 to the Committee report so it is not re-attached.

ADDITIONAL CONSULTEE RESPONSE

The Highway Officer has provided additional comments in respect of traffic generation from the proposed development, as follows:

Trip generation for the proposal has been undertaken using TRICS and a first principle approach from traffic surveys that were undertaken. The results were then applied to the net increase in dwellings created by the development (32). The method is robust as no allowance has been made for the loss of any existing activity from the site. The TRICS data and first principle approach has been assessed and found to be acceptable. The anticipated increase using the first principle approach is circa 25 two way movements in the AM peak, 13 two way movements in the PM peak and 151 movements between 7am and 7pm. Using the TRICS approach peak hour flows are similar with 18 two way movements expected in the AM peak and 16 two way movements in the PM peak. These results from either approach are, in NPPF terms, neither severe or material and in all likelihood the increase will be slightly lower given the removal of trips that could occur from the existing use of the site.

In response to a local resident's specific concern in respect of the configuration of the access, the Highway Officer states:

The proposed bend created by the new access road is located at the end of the current cul-de-sac and thus road speeds are expected to be low in that regard as they approach the bend. Furthermore on approach to the bend there is a large area of verge that will enable good forward visibility of any oncoming traffic and the road width in this location is sufficient for cars to pass each other safely so the chance of sudden braking is reduced in my view. In relation to the noise from cars braking I could not comment on that directly except to say that with cars approaching the bend at lower speeds as expected with sufficient width to pass each other the likelihood of such noisy events occurring is low in my view.

AMENDMENT TO RECOMMENDATION

Revision to wording of Condition 30 to read:

No development shall take place until an Energy Demand Assessment has been submitted to and approved in writing by the Local Planning Authority. This shall demonstrate that a proportion of the development's energy requirements will be provided from on-site renewable energy production (which proportion shall be 10%). The dwellings hereby permitted shall not be occupied until the means of on-site renewable energy has been implemented in accordance with the approved assessment and it shall thereafter be retained in accordance therewith.

REASON: In the interests of the sustainability and the efficient use of resources.
[Relevant Plans and Policies: CSDPD Policy CS12]

Item No: 6

20/00698/FUL

Waitrose 390 Yorktown Road College Town Sandhurst Berkshire GU47 0HL

AMENDMENT TO REPORT:

The Monday to Friday delivery hours have been further reduced from 07:00 - 23:00 to 07:00 - 22:00. This has been offered up by Aldi and will be in line with the delivery hours of the Aldi Bracknell store (at 136 Liscombe).

As such, the following paragraphs in the report are amended accordingly to reflect these further amended delivery hours:

1.1 The delivery hours sought, and as amended during the course of the application (Mondays to Saturdays 07:00 to 22:00 hours and Sundays 09:00 to 19:00 hours) are not considered to result in unacceptable adverse impacts to the residential amenities of neighbouring occupiers.

5.2 The delivery hours proposed by this application, connected to the retail store (currently occupied by Aldi and falling within Use Class E - commercial, business and service use within the Town and Country Planning (Use Classes) Order 1987 (as amended)) are: Mondays to Saturdays 07:00 to 22:00 hours; Sundays 09:00 to 19:00 hours.

5.3 This application would result in an extension to delivery hours to the store as follows:
- Mondays to Fridays: +1.5 hours in the evening (increasing from 20:30 hours to 22:00 hours);
- Saturdays: +0.5 hours in the morning (07:00 hours as opposed to 07:30 hours) and +2.5 hours in the evening (increasing from 19:30 hours to 22:00 hours);
- Sundays: +0.5 hours in the morning (09:00 hours as opposed to 09:30 hours) and +7 hours in the afternoon/evening (increasing from 12:00 to 19:00 hours).

9.16 As a result of this objection (and to be in line with the delivery hours of the Bracknell Aldi store), the delivery hours have been revised to Monday to Saturday 07:00 to 22:00 hours and Sundays 09:00 to 19:00 hours. A revised noise assessment has been submitted which was assessed by the Council's Environmental Health Team. The revised noise assessment concludes that the revised delivery hours, in accordance with the BS 4142:2014 initial assessment of impact would be below that defined as 'adverse' in the standard.

9.19 A planning condition is recommended to restrict the delivery hours to that proposed and amended during the course of this application - Monday to Saturday 07:00 to 22:00 hours and Sundays 09:00 to 19:00 hours, in the interests of residential amenities of neighbouring occupiers. A further condition is recommended which will ensure that deliveries are undertaken in accordance with the submitted Delivery Management Plan.

Correction to first sentence of para 9.20 of the report as Sunday opening hours differ to that stated previously. Para 9.20 should read:

9.20 The current opening hours of the Aldi store are 08:00 to 22:00 hours Mondays to Saturdays (inc. Bank Holidays) and 10:00 to 18:00 hours Sundays.

AMENDMENT TO RECOMMENDATION TO REFLECT FURTHER CHANGES TO DELIVERY HOURS:

Conditions 1 and 2 updated as follows:

1. No deliveries shall be taken at or dispatched from the site outside the hours of:
Mondays to Saturdays - 07:00 hours until 22:00 hours;
Sundays - 09:00 hours until 19:00 hours.

REASON: In the interests of the amenities of the occupiers of nearby residential properties.

[Relevant Plans and Policies: BFBLP EN20, EN25]

2. The delivery hours hereby approved shall operate at all times in accordance with the Delivery Management Plan received 10 February 2021 by the Local Planning Authority.
REASON: In the interests of the amenities of the occupiers of nearby residential properties.
[Relevant Plans and Policies: BFBLP EN20, EN25]

Item No: 7
20/00031/COND
28 Meadow Way Bracknell Berkshire RG42 1UF

ADDITIONAL REPRESENTATION

An additional letter of objection has been received from a postal address that has previously objected.

The letter states:

I believe that the committee report published on 10/12/20 is inaccurate, and that a mature oak with a TPO and standing on council land is about to be removed without the approval of the planning committee.

24/8/17

Planning application submitted. There is no mention of removing the oak tree at issue, see the "Proposed site layout plan". The tree, which was to become TPO1298 T5, lies outside the site boundary and I assume it is on council land.

28/2/18

Planning approval granted.

17/12/18

TPO's assigned to trees, 2 oaks outside boundary and one horse chestnut inside. TPO 1298 T5 assigned to the oak that the developer wishes to remove.

April 2019

New "Proposed site plan" submitted. It designates TPO 1298 T5 as having been previously removed.

10/12/20

Committee report section 6.4.2 states:

...however this particular tree was shown to be removed on the drawings considered by permission 17/00929/FUL before the tree was protected and therefore the LPA cannot resist its removal. I believe this statement to be incorrect, as the TPO was in place before the plans were changed

Officer comment:

The proposed site layout drawing referred to by the objector relating to the original planning permission 17/00929/FUL is superseded and is not an approved plan. The superseded drawing referred to by the objector did show the tree in question (the Oak) being shown to be retained on permission 17/00929/FUL, however the scheme subject to permission 17/00929/FUL was amended during the course of its consideration, including widening the vehicular access to serve plots 3 and 4. This meant that the Oak tree the objector refers to was then shown to be removed to facilitate the access on an amended drawing which was received during the course of considering the application. Information approved as part of the 2017 permission - including the Arboricultural Method Statement and a site layout drawing, both show the Oak tree (T129) to be removed/removed.

As way of background, planning application 17/00929/FUL was reported to Planning Committee in February 2018 where it was resolved to be approved, subject to the completion of a Section 106 Agreement to secure SPA mitigation. Due to delays in the legal agreement

being completed, planning permission 17/00929/FUL was then issued in December 2019. Between this time (of the application being resolved to be approved at Committee in February 2018 and the actual issue of the permission in December 2019, Tree Preservation Orders were placed on 3 trees at this site - 2no. Oaks and 1no. Horse Chestnut). One of the Oaks placed with a TPO was however shown to be removed as part of permission 17/00929/FUL.

As such, the statement at para 6.4 of the Committee report for this item is factually correct and states:

2 existing trees - an Oak and a Horse Chestnut along the western/south-western boundary of the site have been protected by Tree Preservation Orders (TPOs) and these 2 trees would be retained. A further tree was also protected by a Tree Preservation Order, however this particular tree was shown to be removed on the drawings considered by permission 17/00929/FUL before the tree was protected and therefore the LPA cannot resist its removal. An extended vehicular crossover to serve plots 3 and 4 was required for access to these plots and this layout was considered and the Planning Committee resolved to grant permission subject to the completion of a S106 agreement before the trees were protected.

As such, the LPA cannot unfortunately resist the removal of one of the protected Oak trees as it was shown to be removed on the approved (amended) plans connected to planning permission 17/00929/FUL.

Item No: 8
20/00722/FUL
42 Walsh Avenue Warfield Bracknell Berkshire RG42 3XZ

ADDITION TO REPORT

Paragraph 5.3. The height of the proposed single storey rear extension above ground level including the proposed roof lantern would be approximately 4 metres.

AMENDED PLANS

The Block Plan has been amended to remove the initially proposed unacceptable parking spaces.

The Proposed Floor plan has been amended to remove the existing ramp.

ADDITION TO RECOMMENDATION:

Condition 2 should read:

The development hereby permitted shall be carried out only in accordance with the following approved plans and documents received by the Local Planning Authority:

Existing and Proposed Roof Plan - Drawing Number 20.42WA.P05 - Received 28.09.2020
Proposed Floor Plans - Drawing Number 20.42WA.P03.01.01 - Received 09.02.2021
Proposed Elevations - Drawing Number 20.42WA.P04.01 - Revision 01 - Received 28.10.2020
Proposed Parking Plan - Drawing Number 20.42WA.P06.03 - Revision 03 - Received 20.1.2021
Proposed Site Location and Block Plans - Drawing Number 20.42WA.SITE.P01.03
Received 09.02.2021

REASON: To ensure that the development is carried out only as approved by the Local Planning Authority.

Informative 06. The applicant should note that the erection of a ramp may require planning permission.

Item No: 10
20/01061/RTD
Calfridus Way Playing Fields, Bracknell

This item has been deferred and will be considered at a special meeting of the Planning Committee on 25 February 2021.

Item No: 11
20/00020/PAC
Countrywide House 28 Wellington Business Park Dukes Ride Crowthorne

This item has now been determined under delegated powers.

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Agenda Item 5

By email only:

Planning Committee Councillors
Bracknell Forest Council
Time Square
Market Street
Bracknell
RG12 1JD

The Grange
8 Toogood Place
Warfield
RG42 6AF

5 February 2021

Dear Councillors

Contentious and Speculative Herschel Grange Second Application 19/00497/FUL for 33 Dwellings in Countryside Returns for Rehearing following Procedural Error

In order to make a fully informed decision regarding the above Application 19/00497/FUL, as a Bracknell resident and Chair of the Warfield Village Action Group (WVAG), I urge you first to consider the contents of this letter, the aim of which is to provide critical background to the Application before you.

This Second Application, now being reheard and recommended by the Bracknell Forest Council (BFC) for your approval, is essentially the same as the First Application on this Site, which was refused by BFC on 1 May 2019. Yet nothing substantial has changed since then in relation to this, and the main difference between the two Applications is merely a minor tweaking of the balance of affordable housing by adding just two extra affordable dwellings.

However, the primary reasons for refusal of the First Application relating to harm to countryside setting and village character have not been overcome, so this Second Application should also be refused.

Second Application 19/00497/FUL

The current Second Application, first heard at the Planning Meeting on 16 December 2019, is to demolish a 5-bedroom house in Herschel Grange in favour of an inappropriately dense and urban housing estate of 33 dwellings (including 10 affordable), which also includes a block of flats and other dwellings with 3 levels of living space, on a small undeveloped greenfield site in countryside, outside the settlement boundary of Warfield Street village (currently only 100 one- and two-storey dwellings), on land protected from development under existing national and local Planning laws, and at a time when BFC has a Local Plan which does not feature this Site, as well as a healthy 5 year housing land supply and a 99% housing delivery record.

Hearing of Second Application on 16 December 2019

Having been recommended for approval by BFC, the Second Application 19/00497/FUL was initially heard by the Planning Committee at the Meeting on 16 December 2019 and was narrowly approved by 6 votes to 5 (including the Chairman and Vice-Chairman voting in favour) with an exceptionally low Committee Membership attendance of just over 50% - possibly due to the Meeting's postponement from 12 December 2019 (General Election Day) to 16 December 2019, being a Monday instead of the normal Thursday, and being very close to Christmas.

Inexplicable U-Turn by Bracknell Forest Council

While the WVAG was clearly not happy with the approval decision reached at the Meeting on 16 December 2019, **what was even more concerning was the overall process and conduct which led to that decision.** The Officer Reports written by the same Case Officer for both the First and Second Applications inexplicably led to diametrically opposing decisions – refusal of the First and recommendation for approval of the Second - despite there being no material change, ie in Planning policy, HLS, facts on the ground. To all intents and purposes the Applications were the same, the only real difference being that the Second Application was for 33 instead of 34 dwellings, and for 10 instead of 8 affordable dwellings.

A significant number of Committee Members who attended the Meeting on 16 December 2019 afterwards admitted that the approval decision was fundamentally a ‘bad’ decision on three main accounts:

1. BFC had already more than exceeded its 5 year HLS requirement and had achieved a housing delivery of 99%. Therefore this Application, being in countryside outside settlement, and with an urbanising character which was completely out of keeping with its rural and semi-rural surroundings, breached local and national Planning policy, and so should not have been approved;
2. The proportion of affordable housing at 30.3% comprised just two extra affordable dwellings, yet this advantage was used by Officers as a critical planning reason to approve the Second Application, without fully addressing fundamental reasons for BFC’s recent refusal of the First Application;
3. The Chairman emphasised that a key reason to approve the Application was the notion that, should it be refused, the developer might appeal and win, meaning significant costs for BFC - hardly grounds for approval and completely undermining the purpose of the Planning Application process.

Procedural Error by Planning Officers: Failure to Inform

Due to a procedural error by the Planning Officers in their Committee Report and presentation of the Second Application at the Meeting on 16 December 2019, regarding failure to fully inform you, the Committee Members, about their reasons for refusal of the First Application earlier in the year, or to explain why an opposite conclusion had then been reached, the WVAG took legal advice (see attached letter of 14 May 2020 to BFC from Richard Buxton Solicitors), as a result of which the approval decision at the Meeting on 16 December 2019 was nullified and the Second Application is now to be reheard.

Addendum to Second Application 19/00497/FUL/AMEND

The Applicant has taken the opportunity of the Rehearing to add to the Second Application an Application Addendum 19/00497/FUL/AMEND, in which are listed a number of minor amendments to the Site Plan, eg the slight movement or re-angling of a dwelling, which are insignificant in terms of overall scheme density, height and character. As the Case Officer also admitted, there is ‘**no change in the fundamentals**’. The fact that the Applicant has felt it necessary to make these very small changes before the Rehearing would seem to demonstrate an acknowledgement that this Application breaches policy and will have an urbanising and harmful impact on the rural setting of the village and on the intrinsic value and beauty of the countryside.

Rehearing of Second Application with Addendum 19/00497/FUL/(AMEND)

The Rehearing now provides you, our Councillors, with the opportunity to make the best decision, not only for residents of Warfield Street village, but also for the entire Bracknell Forest Borough. Now that BFC can boast a healthy HLS and a housing delivery of 99%, in accordance with existing Planning laws it would not be appropriate to bulldoze and develop this Site, designated as ‘rural’ land by BFC, and destroy more wildlife habitats. Indeed, with the added factors of Brexit and Covid-19 slowing the housing market and substantially increasing empty office block capacity (due to an increasing work from home ethic), the need for housing, particularly affordable housing, would be better met through existing PDL sites and conversion of empty office space in town.

The following are fundamental reasons why the WVAG asks you, the Committee, now fully informed, to vote to refuse the current Second Application (with Addendum):

1. **Location:** The site is outside settlement and in the countryside, so has already been designated by BFC as ‘rural’ non-development land to the north of Warfield Street. The Application is therefore contrary to the Council’s prohibition on development (CS9) and, as confirmed by the Chairman at the Planning Meeting on 16 December 2019, ‘**Members, you’re quite right to state that under our current planning policy, policies for protection of the countryside, this would be automatically refused.**’ According to all the Council’s Landscape Character Assessments, the character of this area is a ‘**predominantly quiet rural area, characterized by scattered small villages and hamlets**’. So the proposed modern dense town-style housing scheme adversely affects the landscape, character and appearance of the countryside setting and semi-rural village of Warfield Street. The BFC

Assessments also highlight the role of this greenfield Site in providing ‘**an important green space function** which provides a strong transition between the urban edge and rural area to the north’.

2. **Character:** The proposed 33-unit development takes the form of a modern urban housing estate, which is completely out of keeping with the surrounding countryside and village settlement and breaches BFC Character policies. Despite minor amendments to the Site plan, the buildings are close together with small gardens and no real boundary landscaping or screening from the countryside and existing viewpoints, causing harm to the village character, its wider rural setting, and the important countryside amenity for Warfield Street residents, visitors and walkers.

The First Application was refused primarily due to its ‘**harmful urbanising impact on the character and appearance of the countryside contrary to development plan policy, the Design SPD and the NPPF**’, and at the Meeting on 16 December 2019, the Officer admitted, ‘**The development would conflict with countryside policies in the development plan...**’, and then again in his summing up, ‘**While the proposal would result in some harm to the intrinsic value and beauty of the countryside, and to the semi-rural character of the site, this harm is minor...**’ The critical question now to be addressed by you, our Councillors, is: What level of harm, if any, is acceptable, when BFC already has more than enough HLS, and the proposal breaches local and national Planning law?

According to the Application Addendum 19/00497/FUL/AMEND, ‘The Application Site either is, or shortly will be, surrounded on three sides (west, south and east) by residential curtilages.’

This is, however, not entirely true, and the harm is therefore greater than portrayed:

- **To the west**, there is an **adjacent green paddock and additional large area of open space with stables**. The scattered low-level mobile homes of The Hermitage are to the south of the paddock and open area. From the adjacent Gibbins Lane country public footpath, **the Site is very visible** (see photo) meaning that all housing, especially the proposed taller buildings with 3 levels of living space and the block of flats, will be **prominent, urbanising and out of character**.
- **To the east**, the Newhurst Gardens appeal site, which was originally unanimously refused by yourselves, Committee Members - being in countryside and in breach of policy - and was only successful at appeal due to a significant HLS shortfall (4.1 years), is **half as dense** as the current proposal; is more in keeping with local character in terms of housing design, height and spacing; and allows for more peripheral planting and landscaping to screen it from the surrounding countryside. Moreover, development on this adjacent site may not happen.
- **To the east**, a further important consideration, which appears to have been overlooked by the current Application, is the **inter-visibility** of the current development (2-storey dwellings and taller buildings of 3 levels with windows) with nearby Warfield House, a Grade II Listed Building, which will cause **considerable harm to its setting and significance as a heritage site**.
- **To the south**, the settlement along and off Warfield Street, more linear in form, comprises a variety of well spaced character dwellings with an overall **village and semi-rural character**.



View of Application Site from Gibbins Lane to the West. Site is beyond the first paddock, between the next fence and far hedge

Toogood Place, a very small cul-de-sac to the immediate south of the Site, is not an appropriate comparator, since it has very limited impact on the Warfield Street settlement as a whole. The same cannot be said, however, for a development that **increases the existing size of the village by over 30%** (33 extra dwellings compared with the existing 100 dwellings which currently make up the village). This will fundamentally change the balance of character and form of the village from a linear village of scattered detached character houses to a more dense town housing estate format.

The failure of the development to be sympathetic to the character of the Site, the character of Warfield Street or indeed the character of the wider area, is contrary to the NPPF and the Council's express policies on character (CS1, CS2, CS9, EN8, EN20, H5). The proposal also fails to meet the Council's detailed Design Policies and Design SPD, eg the tall buildings with 3 levels of accommodation in the northern part of the Site and the block of flats in the southeastern corner are completely out of scale and out of keeping with the surrounding land and village settlement, which breaches SPD guidance on the built form.

- 3. Highways Safety:** An increase of over 30% in the existing size of Warfield Street will bring a significant increase in the volume of traffic, and hence, an increased and unacceptable risk to highways safety, which the proposed measures by the BFC seem to fail to address adequately. Horses and riders are an integral and important part of everyday life along Warfield Street, and over the past few years, there have been at least two serious traffic accidents involving horses and their riders here, which required the emergency services, including the air ambulance. Moreover, traffic access from a new Site onto Warfield Street contravenes existing BFC Development policy designed to safeguard its character and highways safety.



Typical everyday scene on Warfield Street: horses, parked cars, blind bends, queuing traffic in both directions (13 June 2020)

Summary

The proposed development on an undeveloped Site outside settlement boundary has no special characteristics and provides no valid reason to breach policy CS9. It is an urban housing development within an area which the Council itself characterises as rural. Moreover, the character, scale, layout and design of the scheme all conflict with adopted policies. **The harm to the character of the surrounding countryside and village is not disputed by the Council.** Local Character and Design Policies are wholly consistent with the NPPF and therefore carry full weight, and no material considerations have been put forward to override the breach of these policies. In addition, the Council has a Local Plan plus a 5 year HLS and a 99% housing delivery. That is a material consideration that weighs heavily in support of the existing Local Plan policies. In these circumstances, there is no requirement for this Site and no reason to approve the Application. **The Committee should therefore refuse the Application.**

We hope that you support local residents in upholding national and local Development Plan policy and continue to protect the character of Warfield Street village and the countryside to the north of Bracknell.

Yours faithfully



Maggie J Stock (Mrs)

Local Resident and Chair of the Warfield Village Action Group (WVAG)

ADDENDUM

It should also be noted that **two observations made at the Planning Meeting on 16 December 2019**, where this Application was approved, to the effect that:

- i) Planning Inspectors give added weight to proposals for additional housing; and
- ii) Any decision by the Members to refuse the present Application risks being overturned on appeal with costs awarded against the Council;

are **misplaced, incorrect and potentially unlawful**. Since the Site is outside settlement boundary, the **Application is in breach of policy**, and there is no housing shortfall, neither point is a valid material consideration. **It is perfectly reasonable to refuse this Application without fear of costs** being awarded against the Council, should the Application be refused and then appealed by the Applicant, since due consideration has been given to all relevant Planning policies and the Application is in breach of these.

Moreover, the most recent and factually similar case to this Application is the **Appeal dismissal** on 6 November 2019 of Application APP/RO335/W/18/3217574 to develop 12 dwellings on countryside land at Scotlands House, Forest Road, Newell Green, Warfield, located outside settlement to the west of the current Site and to the north of the Forest Road/Warfield Street development boundary. In that case, the **Inspector refused a similar, albeit smaller, planning application than the current Application, in the same locality, and against the same policy background, and agreed with BFC's assessment that it could demonstrate a HLS in excess of 5 years.**

For further information regarding the Warfield Village Action Group (WVAG) Objection to this Second Application, please refer to the letters listed below and attached to this email.

Attachments

- WVAG Letter of Objection of 15 June 2020 to BFC Planning Case Office Jo Male
- Pre-Action Protocol Letter of 14 May 2020 from Richard Buxton Solicitors to Andrew Hunter, Director of Planning Place and Regeneration, Bracknell Forest Council
- WVAG Objection of 13 December 2019

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Attn: Mr Andrew Hunter
Director, Planning Place and Regeneration
Bracknell Forest Council,
Time Square,
Market Street,
Bracknell RG12 1JD

andrew.hunter@bracknell-forest.gov.uk

URGENT

By email only

14 May 2020

PRE-ACTION PROTOCOL LETTER REQUIRES YOUR URGENT ATTENTION

Dear Mr Hunter

Land North of Herschel Grange Warfield Street Warfield Bracknell Berkshire (the Site) Planning Application Reference 19/00497/FUL (the Second Application)

1. I am writing on behalf of the Warfield Village Action Group and refer to the resolution by the Bracknell Forest Council (the Council)'s planning committee made at its meeting held on 16 December 2019 to approve the above Second Application.
2. The Second Application follows the refusal seven months earlier, on 1 May 2019, under delegated powers of application reference 18/00650/FUL (the First Application) which as I will explain, was for substantially the same form and quantum of development, in the same location. The officer reports which underly the two decisions were written by the same officer, Mr Matthew Miller, but inexplicably take fundamentally different approaches to the two applications.
3. Ignoring the detailed differences in the findings (which in any event are summarized below), in his delegated report on the First Application, Mr Miller concludes that the development comprises a substantial and uncharacteristic urban extension to the existing settlement in an area that demands a 'semi-rural' scale and form of development with resulting unacceptable adverse impacts.
4. In the committee report for the Second Application, Mr Miller again finds that the development comprises a substantial urban extension to the existing settlement, but this

time considers that it complements the existing form of the surrounding development. This is a very significant 'U-turn' in the assessment which goes to the heart of the eventual recommendation.

5. Inexplicably, the second report wholly fails to either acknowledge that there has been such a 180 degree change in the assessment of the development, or explain why there is such a change (notwithstanding that the physical and policy context is precisely the same).
6. Please note, that my client understands perfectly well that the Council is entitled to change its mind. However, as I will explain and as is made very clear in the case of *North Wiltshire District Council v Secretary of State for the Environment and Clover (1993) 65 P. & C.R. 137*, before it can do so, it must firstly realise that it is changing its mind, and secondly, it must explain why it is doing so. As I will explain, the committee report wholly fails to explain both that there has been a *volte-face* in the assessment of the development, and why there has been that *volte-face*.
7. The above summary describes a clear procedural error. As a result of that error (and as explained in greater detail below), in resolving to approve the Second Application, the Council failed to have regard to a very significant material consideration, and failed to provide adequate reasons for the 'U-turn'. It follows that any planning permission issued pursuant to the resolution will be unlawful and open to a successful legal challenge with costs awarded against the Council.
8. To avoid the unnecessary costs involved in a legal challenge, I urge the Council to take the Application back to committee and redetermine it.

Claimant

9. Should it prove necessary to issue a claim, the claimant will be a member of the Warfield Village Action Group (WVAG). The members of WVAG have been active in opposing the Second Application and we consider that they have standing to bring the claim in judicial review.

Defendant

10. The proposed defendant is Bracknell Forest Council (the Council).

Decision to be challenged

11. Any decision to issue planning permission for the Second Application pursuant to the Council's resolution of 16 December 2019.

Order Sought

12. The Claimant will seek the following orders:
 - a. Quashing of the permission;
 - b. Costs.

Aarhus Convention Claim

13. Should it prove necessary to issue a claim, this is an Aarhus Convention claim as per CPR 45.41(2)(a)(ii), namely a claim in judicial review "which challenges the legality of any such decision, act or omission and which is within the scope of Article 9(3) of the Aarhus Convention".
14. An Aarhus Convention claim must be brought by one or more "members of the public", which is defined by reference to the Aarhus Convention. Article 2(4) of the Aarhus Convention defines 'the public' as including "one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organisations or groups". The Claimant therefore falls within the definition of 'member of the public' in the context of an Aarhus Convention claim.
15. Should it prove necessary to issue a claim, the Claimant will seek confirmation from the Court that the costs cap as set out in CPR 45.43(2)(b) applies, limiting his liability for adverse costs to £5,000. The Claimant will also seek confirmation that the Defendant's liability for adverse costs is likewise limited to £35,000 plus VAT.

Background

16. As you will be aware, the Site lies outside the settlement boundary to Warfield, and hence in designated countryside. The 1990s development of Toogood Place lies to the immediate south of the Site, and the Hermitage caravan park lies between the western side of the Site and Gibbins Lane. There is open countryside to the north of the Site.
17. The land to the east of the Site (land north of Newhurst Gardens) benefits from an outline planning permission for up to 50 dwellings which was approved at a date when the Council could not demonstrate an adequate 5 year housing land supply. The delegated report relating to the First Application (see below) (the DR) records that this neighbouring site is physically and visually separated from the Site "by a tall, dense strip of planting on the shared boundary, much of which lies outside the application site" (DR pg. 6).
18. The Site is also located within the C1: Binfield Warfield Clay Farmland Landscape Area, as defined in the LUC Bracknell Forest Borough Landscape Character Assessment (2015). As recorded in the delegated officer's report to the First Refusal (the DR), the southern part of the study area (which includes the application site) provides an important green space function between the urban edge of Bracknell to the south and the more fully rural area to the north" (DR, page 6).

The First Application

19. Application reference 19/00497/FUL is the second planning application on this Site (the Second Application). The first (reference 18/00650/FUL) (the First Application) sought planning permission for 34 dwellings (of which 8 were affordable) and was refused under delegated powers on Wednesday 1 May 2019. The proposed layout is shown on the attached masterplan for the First Application.

20. There were five reasons for the refusal, the first of which reads:

“1. The proposed development would have a harmful urbanising impact on the character and appearance of the countryside. The proposal is therefore contrary to 'Saved' Policies EN8, EN20 and H5 of the Bracknell Forest Borough Local Plan and Policies CS1, CS2, CS7 and CS9 of the Core Strategy Development Plan Document, the Design Supplementary Planning Document and the NPPF”.

21. The policy and factual context for the first reason for refusal is set out in the delegated report prepared by Matthew Miller (the DR) as follows:

Policy Findings

- The Council had a 6.04 year housing land supply. As a result, the ‘tilted balance’ recommended in paragraph 11 of the NPPF did not apply.
- Policies CS1 and CS2 were considered “fully consistent” with the Government’s National Planning Policy Framework (the NPPF) (DR pg5). Policy CS2 imports a sequential test (DR pg. 7).
- Policies CS9 and saved policies EN8 and H5 were partially consistent with the NPPF and their weight would therefore be reduced. The partial consistency was a result of the fact that the development plan policies and the relevant policies in the NPPF require development to protect the character of land and its function (including the function of preserving the visual separation of settlements) [DR, pg. 5].
- Policies CS7, CS9, saved policies EN8, EN1 and EN20 all require (as an aspect of good design) development not to adversely affect the character of an area. These policies were consistent with the objectives of the NPPF (and paragraph 124 in particular) and should be afforded full weight [DR, pg. 7].
- the Site is allocated for housing development in the draft Bracknell Forest Local Plan (the dBFLP). However, as the dBFLP is in draft form only, it carried minimal weight (DR, pg 7).

Factual Findings relating to the Site

- “[T]he Site as a whole makes a significant contribution to the character of the countryside by providing an open, unmanaged area of greenery, which also forms a visual connection to the wider countryside to the north through its absence of dense planting on its northern boundary, which provide across-site views” (emphasis added) (DR, pg. 6)¹.
- The character of the cul-de-sac and particularly Toogood Place is suburban within a wider semi-rural character area as identified in the SPD [DR pg. 8]. This suburban character “quickly gives way to a rural character development pattern and setting to the immediate north of [Herschel Grange and Toogood Place], and this is also apparent within the more sparsely developed and heavily planted highway of Gibbins Lane to the west” (DR, pg. 6);

¹ Notably, the Council’s own Landscape Officer was consulted on the application and this assessment appears to reflect those comments (see comment in the table on page 2 of the DR). The Council’s planning portal also records that the consultation response was provided to the case office on 3 September 2019.

- Given the characteristics of the Site, and wider semi-rural character of the area within which the Site sits as identified in the SPD, “further development should have a village feel with substantial green elements and a variety of dwelling types” [DR, pg. 8].

Factual Findings regarding the Development

- “[T]he proposal would [not] form an infill of the existing settlement pattern, but rather a distinct northwards extension of it” (DR, pg. 6).
- The proposal constitutes “a substantial backland development” and represents “a significant increase in the built footprint of the settlement along Warfield Street, within a semi-rural setting. (emphasis added) [DR, pg. 8].
- “the layout and density of the proposal lends itself to an urban character and does not make attempts to achieve a more semi-rural feel” [DR, pg. 6].
- “The proposed development does not achieve a semi-rural character due to the formal layout, and the relative lack of variety in building form and layout” (emphasis added) [DR, pg. 8].
- “While the proposal would have limited visibility from public vantage points to the south and east, it would be distinctly visible both from the west and to the north. The proposed dwellings would likely be notably bulkier and visually urbanizing than the existing form present in the caravan park, and would also have visibility from Gibbins Lane to the north ... the proposal would appear as a clear enlargement of settlement and a significant increase in built form (emphasis added) [DR, pg. 8].
- “[I]t is not considered that the character of an area is defined only by its public visibility” (emphasis added) [DR, pg. 8].
- “there are clear differences in layouts between the Newhurst Gardens scheme and this proposal, notable by the lower overall housing density and the provision of large areas of soft landscaping and amenity space, which assist the Newhurst Gardens development to provide more of a semi-rural character, at least in comparison to the proposal” (DR page 6).

22. Against this background the DR makes the following planning assessment of the development proposed in the First Application:

- The sub-urban character of the layout and failure to achieve a more semi-rural character negatively affects the intrinsic character and beauty of the countryside [DR, pg. 6]
- With reference to the layout and design: “the design does not feature sufficient variety to create a semi-rural character ... the formality of the relationship between frontages, boundary treatments and hard standing prevents the design achieving the organic character expected of semi-rural developments” [DR, pg. 8].
- “Fundamentally, the development is considered to be excessively inwards-looking” [DR, pg. 8].
- conflicts with Policy CS1 as it would not protect or enhance the intrinsic character and quality of the wider countryside “in view of the amount of development proposed” [DR, pg. 7];
- conflicts with Policy CS2, in that when applying the sequential test, residential development would be more appropriate within current allocated sites and defined

settlements, “especially when the Council has a Five Year Supply of Housing” (DR, pg. 8);

- the creation of new dwellings in the countryside also conflicts with the objective in Saved Policies EN8 and H5 of protecting the intrinsic character and beauty of the countryside) [DR, pg. 7].

23. Taken together, the above led to a finding of clear, detrimental harm to the character of the area from the development (DR, page 9). It is this conclusion, in the context of the above detailed findings that underlies the first reason for refusal in the First Application.

The Second Application

24. The Second Application was considered at a committee meeting held on 16 December 2019, just seven months after the First Application had been refused under delegated powers. The minutes of the meeting record just that the Committee resolved to approve the Second Application, but provide no reasons for that decision.

25. The committee considered the Second Application on the basis of a committee report which was again authored by Mr Matthew Miller (the CR). Given the similarity between the two applications, and in the light of the findings and conclusions in the DR in respect of the First Application, it is surprising that the CR recommends that the Second Application for approval.

Background to the Second Application

26. The development proposed in the Second Application, the factual circumstances of the Site and the policy context against which the Second Application is assessed are essentially the same as for the First Application.

27. The Second Application proposes developing precisely the same Site. As is clear from the attached masterplan which formed part of the Second Application, the scheme itself is materially the same as the First Application:

- The road and plot layout is essentially identical;
- The unit types are identical.

28. The only physical difference between the two applications is a reduction by 1 (one) in the number of proposed units (giving a total of 33 units), and an apartment building has been relocated from the north western corner to the south eastern corner (with the original site now given over to a small area of open space). In addition, 10 units (as opposed to 8) are now proposed to be affordable.

Policy Findings (Second Application)

29. As the CR confirms, the policy context of the Second Application is also precisely the same as that of the First Application. The table at paragraph 8.1 of the CR confirms:

- Policies CS1 and CS2 are given full weight;

- Policy CS9 and saved policies EN8 are given moderate weight;
- Saved Policy H5 is given limited weight, but considered to be relevant; and
- Policies CS7, EN1, EN20 are given full weight.

30. Paragraph 9.2 confirms that the Council can demonstrate 6.09 year housing land supply and paragraph 9.10 confirms that the draft site allocation in the draft Bracknell and Forest Local Plan is given only minimal weight (CR para 9.10).

Factual Findings relating to the Site

31. The CR describes the Site in essentially the same terms as the DR, noting that:

- The area which includes the Site provides an important green space function between the urban edge of Bracknell to the south and the more fully rural area to the north (CR, para 9.13).
- The Site is predominantly undeveloped, and contains some valued landscape features (as listed in the Bracknell Forest Borough Landscape Character Assessment (CR para 9.18)².
- The Site is bordered to the south by a defined settlement and to the west by the Hermitage Caravan Park (CR, para 9.15).
- The approved but unbuilt Newhurst Gardens development is physically and visually separated from the application site by a tall dense strip of planting located on the shared boundary (CR, para 9.16).
- “The character of the cul-de-sac, and particularly of Herschel Grange and Toogood Place is suburban, the wider context is of a semi-rural character” (CR, para 9.24).
- The Site is ‘visually enclosed’ from the south and east, but “opens up to the north”³ with “limited public vantage points from this direction”. From the west the Site is largely screened, except for a visual gap when viewed from Gibbins Lane immediately north of the Hermitage caravan park.

32. Despite the fact that nothing has changed on or in the vicinity of the Site since the First Application, Mr Miller now concludes that the visual value of the contribution of the Site to the wider countryside is restricted (CR, paras 9.18 – 9.19) and that the Site has “low to medium landscape sensitivity due to its relationship with the existing settlement and the limited visibility of the site from public vantage points” (CR, para 9.20).

33. This in turn leads to the conclusion that, while the proposal would conflict with elements of policies CS9 and saved policies EN8 and H5, “in view of the weight to be attributed to these policies, the overall harm arising is considered to be no more than minor” (para 9.21). **Again, this is a conclusion that begs further explanation, given that nothing has changed in the policy context of the Site since the First Application.**

Factual Findings in relation to the Development

² Two consultation responses by the Council’s Landscape Officer are recorded on the Council’s Planning Portal, but neither are actually accessible. To the extent that those responses reached a different conclusion to Landscape Officer’s response to the First Application, that difference equally needs to be explained.

³ See comment at CR para 9.33 that “the site itself is mainly open pasture, and limited planting is present to the western and northern boundaries”.

34. In a very brief discussion of the proposed Development itself, the CR finds:

- The development “represents a significant increase in the built footprint of the settlement along Warfield Street, within a semi-rural setting”, but then states “[h]owever, it would form an extension to the existing 1990s suburban cul-de-sac developments of Herschel Grange and Toogood Place, which themselves ... do not follow the linear frontage development form of the original Forest Road (including Warfield Street) settlements. The site would continue this suburban pattern and harmonise with the existing built form forming a sympathetic continuation of the settlement” (para 9.25).
- The proposed layout and density of the development reflects a suburban form of development, which is also reflected in the standardized footprint of the proposed plots (CR, para 9.26).
- There is some degree of variety in building designs and external materials. The development seeks to provide a modern design style which would sit comfortably with the 1990s residential development to the immediate south (CR, para 9.27).

35. The conclusion to this section of the CR reads: “The proposal would be a clearly suburban form of development by virtue of its density, scale and design. As a result, the proposal would change the semi-rural character of the existing site. It would however accord with the character of Herschel Grange / Toogood Place to the immediate south” (para 9.36).

Planning Assessment

36. The officer’s assessment is set out at section 10.3 of the CR:

“The proposal is considered to result in some harm to the intrinsic value and beauty of the countryside (para. 170b) of the NPPF), as well as to the semi-rural character of the site. However, for the reasons explained in the report, this harm is considered to be minor in the context of the overall modest landscape value of the site combined with the fact that the proposal would relate well to the existing settlement and the site’s limited inter-visibility with the wider landscape to the north”.

37. This overall conclusion at Paragraph 11.1 of the CR, is that:

“While the proposal would result in some harm to the intrinsic value and beauty of the countryside, and to the semi-rural character of the site, this harm is minor, and the weight to be applied to the Council’s countryside policies is reduced. The proposal offers benefits in the form of an above policy-compliant level of affordable housing, and the provision of housing generally.”

38. It is notable, that the CR fails to explain the planning assessment behind the Council’s decision to refuse the First Application or the reasons for departing from that assessment. As I will explain, that reasoning is a material consideration in determining the Second Application, and as a result of this omission, the Council’s planning committee failed to have regard to a material consideration.

39. The minutes of the planning committee meeting held on 16 December 2019 provide no further reasons for the Council's resolution to approve the Second Application. A court will therefore assume that the committee adopted the reasoning set out in the CR. As I will explain, that reasoning is inadequate, and renders the resolution unlawful.

Legal Background

40. It is a truism of planning law, that in determining a planning application, a local authority is required to determine the application in accordance with the development plan unless material considerations indicate otherwise (sections 70(2) of the Town and Country Planning Act 1990 and 38(6) of the Planning and compulsory Purchase Act 2004).

41. The material considerations that must be taken into account in reaching a decision include previous decisions on similar proposals. In the case of *North Wiltshire District Council v Secretary of State for the Environment and Clover* (1993) 65 P. & C.R. 137 Mann LJ commented (at page 145):

“It was not disputed in argument that a previous appeal decision is capable of being a material consideration. The proposition is in my judgement indisputable ... I do not suggest and it would be wrong to do so, that like cases must be decided alike. An inspector must always exercise his own judgement. He is therefore free upon consideration to disagree with the judgement of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision”. (emphasis added)

42. While there is no statutory duty to provide reasons for approving a planning application, the Courts have repeatedly held that the particular circumstances of a case may require reasons to be given (*Oakley v South Cambridgeshire District Council* [2017] EWCA Civ 71 at para 61, and *Dover District Council v CPRE Kent* [2017] UKSC 79 at para 57). Those circumstances include in particular (as Mann LJ suggests above) the situation where a local planning authority having already refused a planning application on a particular site, subsequently resolves to approve what is a substantially similar application.

Potential Grounds of Claim

43. As I will explain, the above factual scenario gives rise to two potential grounds of claim should the Council issue permission for the Second Application pursuant to its resolution of 16 December 2019:

- (a) failure to have regard to a material consideration; and
- (b) failure to provide adequate reasons for its decision.

44. For the reasons I have explained, there can be no dispute that the First and Second Applications envisage substantially the same development (albeit, the second Development is reduced by 1 unit, with an apartment block relocated, and just two additional affordable housing units), relate to precisely the same Site, and were considered against precisely the same policy background.

45. Nonetheless, the same officer who wrote both reports reached diametrically opposing conclusions. In particular, in respect of the First Application, Mr Miller found that:
1. The proposal would be distinctly visible from both the west and north of the Site.
 2. In any event, the character of an area is not solely defined by its public visibility.
 3. Given the characteristics of the site, and wider semi-rural character of the area within which the site sits as identified in the SPD, “further development should have a village feel with substantial green elements and a variety of dwelling types”.
 4. “[T]he layout and density of the proposal lends itself to an urban character and does not make attempts to achieve a more semi-rural feel.
 5. The failure to achieve a semi-rural character was a result of the formal layout and the relative lack of variety in building form.
 6. The proposal was excessively inward looking.
46. This led to the understandable conclusion that the proposal represented a clear, detrimental harm to the character of the area, that such harm conflicted with adopted policies (many of which attracted full weight), and that, particularly in the light of the adequate housing land supply, that harm justified refusal of the First Application.
47. By contrast, the CR reaches different conclusions on significant points, but without any explanation at all as to why it has done so. In particular, there is absolutely no acknowledgement or attempt to address the strong view expressed in the DR that “further development should have a village feel with substantial green elements and a variety of dwelling types”.
48. On the contrary, the CR finds quite the opposite:
- Instead of the proposal promoting a more appropriate semi-rural / village feel, the CR almost revels in its recognition that the development proposed in the Second Application constitutes “ a significant increase in the built footprint of the settlement along Warfield Street” and would form an extension to the existing 1990s developments of Herschel Grange and Toogood Place continuing their “suburban” pattern.
 - Instead of addressing the “lack of variety in building form and layout”, the CR merely comments that there is “some degree of variety in building designs and external materials” and notes that the proposal is of a modern design that “would sit comfortably with the 1990s residential development to the immediate south”.
 - Instead of there being a ‘clear’ detrimental harm to the character of the area, that harm is now characterized as ‘minor’.
 - It is implied that the development will be well screened. No mention at all is made of the finding in the DR that public visibility is not the sole defining element of an areas character.
49. To be clear, the complaint here is not that the Council has reached a different decision on the second Application. As Mann LJ made clear in *North Wiltshire*, the Council is entitled to do so.
50. However, where the facts are essentially the same (i.e. the Site, the scale of the development, and the policy context), as *North Wiltshire* makes clear, the fact that there

has been a change in the analysis is a material consideration that should be brought to the attention of the decision maker, and that change itself requires reasons to be given.

51. In this case, the change in the analysis (which amounts to a 180 degree 'U'-turn) was not explained to the committee, and no reasons at all for it were given. Hence, if a planning permission is issued pursuant to the 16 December 2019 resolution, that permission will be unlawful and open to a successful judicial review, with costs awarded against the Council.

Summary

52. It will be common ground that for the purposes of the complaints in this letter, the relevant factual and policy matrix of the First and Second Applications are materially the same.

53. The officer reports underlying the two applications were written by the same officer, but reached different conclusions on material and key planning issues, resulting in a very different approach to the two developments (the first advocating a semi-rural development to minimise harm to the character of the area as the proper approach to policy, the second advocating a sub-urban development in the same location to complement the development form in Herschel Grange and Toogood Place).

54. The CR (which is the report on the Second Application) (a) fails to explain the very fact of contrary material findings and approach in the DR, and (b) fails to explain why it proposes to depart from those findings and approach, notwithstanding the absence of any fundamental change in either the relevant factual or policy background to the two applications.

55. As a result of the first of these two failures, in reaching its resolution to approve the Second Application on 16 December 2016, the Council's planning committee failed to have regard to a material consideration. The second failure engages the principle identified by Mann LJ in *North Wiltshire DC*. The failure to provide adequate reasons for departing from an earlier decision also renders unlawful the resolution to approve the Second Application.

56. It follows that any attempt to issue a planning permission pursuant to the resolution of 16 December 2019 will be unlawful and open to a successful judicial review, with costs awarded against the Council.

Details of Legal Advisors Dealing with the Claim

57. The Claimant's solicitors are Richard Buxton Solicitors, the details are as per the heading of this letter. The solicitor with responsibility for the case is Simon Kelly.

Details of Interested Party

58. Mr Peter Reed, Hobsons Developments Ltd, Office 9, 55 Park Lane, London, W1K 1NA

What the Council is requested to do

59. The Council is invited to agree:

- a. not to issue any planning permission for the Second Application pursuant to the resolution of its planning committee dated 16 December 2019; and
- b. to return the Second Application to the committee for redetermination, having corrected the errors in the officer's report identified above.

Timing of Response

60. We understand that a planning permission for the Second Application is imminent. We therefore request that the Council confirms point (a) above by return and confirms within five working days that it will agree to point (b).

I look forward to your urgent response.

Yours sincerely,



Simon Kelly

Richard Buxton Solicitors

Encl: Masterplans of First and Second Applications

cc. Timothy Wheadon, Chief Executive (timothy.wheadon@bracknell-forest.gov.uk)

Jo Male, Planning Officer (jo.male@bracknell-forest.gov.uk)

Sanjay Prasher, Borough Solicitor (sanjay.prashar@bracknell-forest.gov.uk)

**Warfield Village Action Group (WVAG) Objection to Planning Application 19/00497/FUL
for 33 Houses on Land North of Herschel Grange, North of Warfield Street
December 2019**

The planning application proposal involves the demolition of one house in order to enable access for the construction of 33 houses, 10 of which would be affordable. The original planning application 18/00650/FUL on this same site for the same number of houses as the current application 19/00479/FUL was refused earlier this year (1 May 2019) by the same Bracknell Forest (BF) Planning Case Officer on the following grounds:

1. Harmful urbanising impact on the character and appearance of the countryside.
2. Failed to demonstrate ...that it would not result in an adverse impact on biodiversity, through its failure to adequately address concerns over the presence of protected species and priority habitats.
3. Failed to demonstrate....that an acceptable surface water drainage mitigation strategy on a Sustainable Drainage System (SuDS) scheme can be achieved.
4. Extra pressure on the Thames Basin Heaths Special Protection Area (SPA) and the proposal would not satisfactorily mitigate its impacts in this respect.
5. Unacceptably increase pressure on local open space, and inability to mitigate its impact on community infrastructure.

The latest planning application, a slightly revised version of the original, has in fact changed very little from the previous application on this same site, except for a small increase in affordable housing from 8 to 10, and seems to have only now been recommended by the Case Officer to avoid the risk of incurring significant costs to the Council, should the case go to Appeal and be accepted. The purported grounds for recommendation in the Case Officer's Committee Report are therefore neither robust nor consistent with existing BF planning evidence:

- The development would conflict with countryside policies in the development plan but the harm is considered to be minor.
- The proposal would not adversely impact upon the character and appearance of the immediate area, nor would it adversely affect the residential amenities of the occupants of neighbouring residential dwellings.
- The proposal would also be acceptable in terms of highway safety and parking, subject to proposed conditions.
- Relevant conditions will be imposed in relation to multiple matters, including surface water drainage and biodiversity.

Indeed, the alleged reasons for recommending this site are inconsistent with all existing BF planning evidence and in stark contrast to the reasons given only 6 months previously, by the very same Case Officer, for refusal of what is effectively the same application proposal on exactly the same site, despite his confirmation that the first three reasons given for refusal were 'fundamental' so unlikely to be surmounted. This is effectively reconfirmed in his Committee Report: 'The proposal for building houses and flats on a primarily greenfield site would conflict with the Council's countryside policies. Giving those appropriate weight, as

described above, the proposal is not considered acceptable in principle. This means that the application should be refused unless material conditions indicate otherwise' (9.12).

Planning grounds to support the Refusal Recommendation for the latest planning application made on 27 June 2019 by Warfield Parish Council, who know and understand local reality, residents and needs, should be heeded by BFC and Planning Councillors to ensure that planning permission is not granted for this site:

1. Outside of the defined settlement area;
2. Overdevelopment of the site and out of keeping with the area;
3. Concerns regarding increasing traffic levels across the local area resulting from the proposal combined with the extant permission for housing north of Newhurst Gardens, and the impact this would have on highways safety;
4. Urbanisation of defined Character Area;
5. Adversely impact local open space.

Also to be considered in deciding whether to accept or refuse the application is the Warfield Neighbourhood Plan as it nears Adoption stage. This states that development proposals outside defined settlement boundary to the north of Warfield Street will only be supported if they are 'appropriate forms of development and they are consistent with development plan policies relating to the historic environment, heritage assets, landscape character, protecting the natural environment and where they will not compromise the delivery of the green infrastructure network'. The Herschel Grange planning application would fail to meet these criteria.

Most importantly, Bracknell Forest does not need this greenfield, not previously developed, countryside application site, as, even without it, it has succeeded in demonstrating a Housing Land Supply (HLS) of over 6 Years, so well in excess of the Government's 5 Year HLS Requirement, and with a 'robust HLS buffer', as confirmed by Max Baker, BF Head of Planning. The BFC's 5 Year HLS was confirmed by the Inspector as a reason for refusal of the recent Appeal APP/R0335/W/18/3217574 for Scotlands House, another Warfield site to the north of Warfield Street/Forest Road. The recent significant drop in Housing Land Need (HLN), or the number of houses required, in the Borough is stated in the Introduction to the Draft BFLP as one of the key strands behind the BF Revised Growth Strategy.

The selection or allocation of the application site (WAR9) as a 'preferred' site for potential development in the Draft BF Local Plan (BFLP) does not accord with the declared objectives set out at the beginning of the Draft BFLP: 'to ensure that the Borough's valued natural and historic environment is properly protected, enhanced, supplemented and managed as appropriate to its significance; such as, countryside, landscapes, open spaces, community facilities, heritage assets (including their setting), water, air and soil environments, and areas of nature conservation/ecological value (including Habitats Sites).'

Indeed, the SHELAA identified around 100 potential sites for development within the Borough, including many other arguably more suitable sites than WAR9. In the evidence used by BF to support its selection of 'preferred' sites, there appear to have been

inconsistencies relating to the way certain criteria were applied to 'preferred' and 'omitted' sites. There are a number of sites, which have been 'omitted' from the Draft BFLP on the grounds of lying north of the Warfield Street/Forest Road 'divide' and/or protruding into countryside to the north eg WAR8. Yet, while both of these criteria also applied to WAR9 (and also the adjacent field WAR10, the Newhurst Gardens appeal site), WAR9 and WAR10 were both unexplainably classified as 'preferred' sites. Furthermore, there were over 70 potential SHELAA sites 'omitted' from inclusion in the first draft of the BFLP, many of which would better meet the National Planning Policy Framework (NPPF) requirement for development, as they are within settlement and/or brownfield sites ie Previously Developed Land (PDL), as well as a number of 'windfall' sites, some of which are also PDL sites. According to the NPPF, these sites should automatically be 'preferred' over the allocation of greenfield sites or countryside sites not previously developed like WAR9 and WAR10. Since there are PDL sites which have either been 'omitted' or even removed from the Draft LP, the continued inclusion of WAR9, a greenfield not previously developed site outside settlement boundary and within protected land north of Warfield Street, in the latest Draft BFLP, as well as its current consideration as a planning application site, is not consistent with the NPPF priority to exhaust urban and brownfield sites first.

The Draft BF Local Plan is still no more than a Draft or emerging plan and therefore can be given no weight in any current planning decisions made, meaning that in determining the Herschel Grange planning application, only existing Development Plans and policies apply. Indeed, a final BF Local Plan is not scheduled for Adoption until January 2021 at the earliest.

Under the current BFC Development Plan, countryside to the north of Warfield Street is protected from further development, so to develop this greenfield site which is not previously developed land, is countryside outside existing settlement boundary, and is designated by BFC as an Area of Character, not only fails to accord with the NPPF but is inconsistent with existing and longstanding BFC evidence, designed to preserve the rural character and landscape to the north of Warfield Street. Indeed, it is not one of the sites designated for development in the existing and current BFC Development Plan and, according to the NPPF, should only ever be considered for use as building land, once all urban or sites within settlement and brownfield or PDL sites have been exhausted, which is not currently the case in BF Borough.

Development on this site would also be inconsistent with the requirement to maintain a gap of a field's width between settlement and green belt ie 'the important green space function' highlighted in the Site Allocation Proforma for the application site in the Draft BFLP. The Landscape Sensitivity Appraisal for the BF Local Plan also confirms that, if developed, this site would 'extend the built form a little further north into countryside than the current settlement edge'. Listed in the same document for this site are 'some features and characteristics that are valued in the Bracknell Landscape Character Assessment' and may be 'at risk if the site were to be developed indicating some sensitivity in terms of valued features' including: 'Clusters of trees which help to soften the boundary between adjacent urban areas providing a visual buffer between the northern edge of Bracknell and the rural farmed landscape; hedgerows and hedgero@ standard oak trees; the open and rural

character of the landscape which provides a rural buffer to the settlement; the quiet and rural character and sense of openness including the rural character of the villages'.

Warfield has already delivered a major proportion of the Borough's current HLS capacity, including 2,200 houses already planned and partially delivered to the south of Warfield Street, plus the Newhurst Gardens site for 50 houses to the north. Further development and exploitation therefore of the small unique character village of Warfield Street, with a mere 100 dwellings, is not only unreasonable, but represents unacceptable and irresponsible overdevelopment.

Given that the Herschel Grange application is for Full planning permission, as opposed to Outline planning permission, the proposed site layout is also an important consideration in the application decision. As recognised by the Warfield Parish Council in its objection to the original planning application 18/00650/FUL last year on the same site, the proposed high density development, including 3-storey buildings, is utterly out of keeping with the rural surrounds and the character, density and form of the existing village settlement, and the latest proposal 19/00497/FUL is no different.

The proposed housing density of the application site, as shown in the Amended Site Plan (see below), together with the size, scale and height of 'various plots' along the eastern side of the site, including an apartment block in the southeastern corner, is excessive, inappropriate and out of keeping with the surrounding semi-rural area of character and open countryside. Certain buildings, including the apartment block, are claimed by the applicant to be 2.5 storeys with 'loft space accommodation', which means in effect three storeys. Furthermore, the close proximity of houses, including the 3-storey apartment block, to the site boundary directly abutting existing properties in Herschel Grange and Toogood Place, is completely unacceptable and breaches all existing BF policy, evidence and support documents. Indeed, the Character Area Assessment requires that, where proposed dwellings adjoin the boundary of existing dwellings, the proposed gardens should be at least of an equal length and distance. The implications of such proximity, especially for residents in existing properties 2, 3 and 4 Toogood Place, which do not benefit from longer gardens, are such that they will inevitably be overlooked and deprived of their right to privacy. Unacceptable, too, will be the proximity of proposed dwellings along the western site boundary with The Hermitage Mobile Home Park, where existing mobile bungalows will be overlooked by a minimum of 2-storey housing.

As admitted in the BF Committee Report, the proposal would impact adversely on the character of the area as it 'would be a clearly suburban form of development by virtue of its density, scale and design' and 'would change the semi-rural character of the existing site' (9.36). To permit the applicant 'to seek to achieve' their 'own architectural style' for the site (9.27) would be in breach of the NPPF and all existing BFC planning evidence, as it is inconsistent with the aim to remain in keeping with the semi-rural character of the village and the countryside surroundings.



PLANNING ISSUE

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HOOSON DEVELOPMENTS
 HERSCHEL GRANGE, WARFIELD, BRACKNELL

DRAWN BY:
PROPOSED SITE PLAN

DATE: 1.09.19
 APP. NO. 19/00497/FUL
 17-22175-02


 Bracknell Forest Council
 Planning and Development

AMENDED PLAN
 19/00497/FUL
 18.10.19

As is evident from the above Amended Plan, the proposed layout allows for neither green space nor hedgerow space and, with its unacceptable proximity of proposed dwellings to the site boundary, also means that the necessary 'wildlife corridor' is reduced to a mere hedge. Moreover, there is no proper allowance made to 'protect and enhance' biodiversity or to 'retain and reinforce' planting, including the beautiful large mature oak trees on this site or similar trees directly adjacent and bordering the site, including a number of trees with Tree Protection Orders (TPOs) in existing adjacent properties of Toogood Place.

Immediately following validation of the replacement planning application 19/00497/FUL for the Herschel Grange site, one such healthy mature oak tree on the application site was quickly felled on 6 June 2019 - clearly to make way for proposed housing on this site (see photos below captured by a neighbour). BF Council were advised and appeared to take no action, claiming that, while this action may not be recommended, the tree had no Tree Protection Order (TPO) so there was little they could do, even though the felling of the tree on the application site was clearly within the design of the Planning Application 19/00497/FUL, already submitted and validated, and was contrary to NPPF requirements. The Council's seemingly evasive, irresponsible stance on this issue is also reflected in the Committee Report under Landscaping and Trees, which incorrectly claims that 'No trees within the site or on its immediate boundary are subject to Tree Preservation Orders (TPOs). The Tree Officer has no comment to make in view of this.' (9.32). With global recognition of the increasing catastrophic consequences of climate change caused by greenhouse gases, namely carbon dioxide generated by man, being trapped in the Earth's atmosphere, the practice of randomly felling mature healthy trees, which not only support wildlife and add to the intrinsic beauty of nature, but absorb carbon dioxide and produce oxygen the world so desperately needs, is mercenary, irresponsible, anti-social and criminal.





Beautiful large, healthy, mature oak tree felled on Herschel Grange Application countryside site on 6 June 2019



The felled mature oak tree clearly a perfectly healthy specimen



Tree surgeons depart via Herschel Grange

Biodiversity would be significantly threatened by development of the above site, which currently benefits from the natural variety of life and different habitats, including long, mature hedgerows, a UK Priority Habitat supporting nesting birds and a range of UK Priority Species; as well as grassland, several scattered large mature oak trees and dense scrub, supporting birds, bats and reptiles and forming part of the grassland and woodland habitat networks, which not only help provide the all-important connectivity for wildlife, but which must be preserved now more than ever, given the reality of increasing climate change, which has become, nationally and globally, the highest priority for the survival of all natural life.

As evidenced from the above tree felling, the Committee Report claim that the aim of the planning application 'to retain the majority of the existing trees that are present on the northern and southern boundaries' would 'accord with the recommendations of the Character Area Assessments SPD which states that new developments should retain and reinforce tree and hedgerow planting' (9.34) is clearly not true. The immediate harm to biodiversity and wildlife represented by development of the application site - and hence the responsibility towards protection and enhancement of biodiversity and wildlife habitats - is even greater, given the planning permission already granted on the immediately adjacent greenfield site, north of Newhurst Gardens, for 50 houses, in order to provide the fundamental continuity of habitat for the displaced wildlife from the adjacent site.

Since the application site falls within the Zone of Influence ie it is within 5km of the Thames Basin Heaths Special Protection Area (SPA), where critical birdlife must be preserved, its development could potentially threaten the integrity of the SPA and protected species within it. Under EU Law (which will still be in force in the UK post-Brexit), proposed development of this site for more than one dwelling would be refused, unless it can be proved through an Appropriate Assessment that the development will cause no harm to the SPA. Due to a recent European Case Law (People over Wind in Ireland), it should no longer be deemed sufficient for potential harm to habitats to be mitigated through financial contributions to 'Suitable Alternative Natural Greenspace' (SANG) or the SPA, so this European Requirement should be respected by BFC and BF Planning Councillors in their decision making and recommendations made.

As already stated, the proposed scale and housing density of the planning application is out of keeping with the surrounding countryside and semi-rural Warfield Street village, linear in form and characterised by well spaced, varied character houses, bungalows and cottages, as well as older heritage buildings. Site development on this scale, together with the volume of extra traffic generated, would undermine the unique character and heritage of Warfield Street, designated by BF as an Area of Character with its rural village aspect; countryside; stables and farms; horse riding and absence of both street lighting and urbanisation; and historical, medieval and archaeological interest, including a higher than average proportion of Grade II English Heritage Listed Buildings. Not fully appreciated in the Committee Report is the extent of heritage sites along Warfield Street - including Newell Hall, Priory Cottage, Horseshoe House, Wee Knibbs, Knibbs Nook, Pear Tree Cottage and Lane End Cottage - as well as others sited throughout the village just off Warfield Street, all of which would be further and irretrievably damaged through harm to setting, harm to their significance as heritage sites, and harm to their very fabric through increased and unacceptable levels of pollution from the significant increase in traffic generated by two prospective and disproportionately large housing developments to the north of Warfield Street.

In addition, BF Historic Environment Assessment of the application site (WAR9) highlights the damage that would be caused to the potential prehistoric, Roman, medieval and post-medieval landscape significance of the site and its external hedgerows: 'Development may harm this through alteration of local historic landscape character'.



Heritage Assets on Warfield Street include Wee Knibbs, Knibbs Nook, Pear Tree and Lane End Cottages

The 'horsiculture' heritage and culture of Warfield Street dates back to the Domesday Book in 1086, where Warfield Street is mentioned as a route used by highwaymen. In the 17th Century, it formed an old drover's road, along which cattle were herded by men and horses and watered at the pond opposite the Priory (at today's Old Priory Lane junction with Warfield Street), diagonally opposite Gibbins Lane. In the 18th/19th Centuries, two public houses were trading on Warfield Street, both bearing distinctly 'horsiculture'-related names: The Plough and Harrow and The Four Horse Shoes, the former still trading under the same name at the crossroads junction at the western end of Warfield Street, and the latter now a residential Grade II Listed Building, Horseshoe House, located directly at the Herschel Grange junction onto Warfield Street, also the access from the application site onto Warfield Street. In the Site Allocation Proforma evidence, potential damage to

Horseshoe House has not been acknowledged, and yet its character, setting, environment and very fabric would undoubtedly be harmed by the almost trebling of traffic and pollution damage that would be generated by an increase of 33 dwellings along Herschel Grange, meaning harm to its significance as a listed building.



Horseshoe House. Grade II Listed Building, located on Herschel Grange junction with Warfield Street



With several stables still dotted around the village, including on Gibbins Lane next to the application site, horses continue to be a very visible and integral part of the character and everyday life of Warfield Street village. As confirmed in the Committee Report, 'the site appears to have had historic equestrian use, its current use is as horse grazing and it was historically known as The Hermitage.' In its consideration of this planning application, Councillors surely have a duty and care to preserve and protect the rural and historical 'horsiculture' character, culture and tradition of Warfield Street still very much in evidence today, as well as the wellbeing and safety of its horse riders.



Horses grazing on Herschel Grange application site



The Herschel Grange planning application proposal for vehicular access onto Warfield Street undermines all existing BFC planning evidence and policy designed to prevent additional traffic from accessing Warfield Street, in order to safeguard its unique village character, regulate the already excessive volume of traffic and protect highways safety. Harvest Ride,

running parallel to Warfield Street to the south, was originally designed to alleviate the traffic on Warfield Street. A further initiative in support of this policy was the retention of traffic bollards on Maize Lane and the blocking of Old Priory Lane, to prevent further outflow of traffic onto Warfield Street. So to accept the above planning application would be to significantly add to existing already excessive levels of traffic along Warfield Street and would be in breach of the current BFC Development Plan.

The safety of all road users will be significantly and unacceptably threatened by the proposed access onto Warfield Street of such a high level of extra traffic movements that a development of this size will generate. This is further increased, given the already planned Newhurst Gardens site for 50 houses with access onto Warfield Street, and the planned and only as yet partially delivered 2,200 houses to the immediate south. The intrinsic village nature and characteristics of Warfield Street, essentially a narrow winding country lane, make a further planning proposal even more absurd and a recipe for disaster. Potentially dangerous aspects include complex junctions at either end of Warfield Street; excessive levels of traffic already, including heavy through-traffic (see photo); serious blind bends; several dangerous junctions and driveways with poor visibility; on-road parking (due to cottages fronting onto street) sometimes meaning less pavement space; residents reversing out of tiny driveways; higher than average proportion of non-vehicular road users, including horse riders, cyclists and pedestrians, many of whom are elderly, and all of whom are especially vulnerable, as has been evidenced by serious accidents over the last few years involving vehicles and horse riders (see Thames Valley Police Notice below).

The unusually high level of road safety risks combine to mean that Warfield Street is not in a position to safely and readily cope with the hundreds of proposed extra vehicular movements a day that two additional housing developments to the north of Warfield Street will generate. Moreover, given the actual unsustainability of both sites, the Herschel Grange proposal is likely to generate considerably more traffic than currently predicted by traffic models and the real impact appears not to have been fully considered at this stage. The BF Committee Report assertion that 'the development would not result in an adverse impact on highway safety' (9.69) is not justifiable and is therefore irresponsible.





Warfield Street: Another horse rider accident waiting to happen due to blind bends and excessive traffic.



Warfield Street: Listed buildings, parked cars, junctions, blind bends, excessive traffic - a recipe for disaster.



Dangerous Five Ways Junction at east end of busy Warfield Street.



Heavy duty lorry on small village Warfield Street!



Neither the application site nor the adjacent appeal site, Newhurst Gardens, are currently sustainable, so the current applicant's claim that: 'The site fares well in the Sustainability Appraisal in terms of access to services, such that there should be no harm in terms of this issue' is unjustified and unjustifiable. Similarly, the assertion in the Committee Report that the Newhurst Gardens Inspector confirmed that 'the site is sustainably located' (9.65) is incorrect, as in fact he concluded that 'there would be some harm in terms of access to services.' (1.21). He also admitted that it is 'contrary to the Development Plan' and refers to 'the current unsustainability of the site's location' as well as 'the moderate harm to the character and appearance of the area.'

A further statement made in the current application that, 'The Warfield development will provide additional facilities and services within the next 5 years', with reference to the planned development, SA9, to the south of Warfield Street, should carry no weight in the consideration and weighing in the balance of this application, since a possible future event does not provide a robust or accepted planning ground, on which to base the recommendation of a site for housing. The proposed amenities to the south are simply proposals; they do not currently exist and are by no means certain and therefore bear absolutely no relevance to this planning application.

It should be remembered that the adjacent Newhurst Gardens site application was rejected unanimously at the Planning Committee Meeting by all voting Councillors on three fundamental grounds:

- a) Outside settlement boundary;
- b) Out of character; and
- c) Unsustainable;

and nothing has changed in these three site characteristics since that judgment in February 2017. One significant planning change, however, is the decrease in HLN and the significant increase in, and excess of, HLS in the Borough, meaning that such a small countryside site outside settlement boundary is not actually required for development and so clearly should not be even considered.

The suggestion in the Herschel Grange planning application that a 'cycle and pedestrian linkage' to the Newhurst Gardens site might 'potentially reduce car trips' has no justification whatsoever, as both sites are currently unsustainable and remain outside reasonable walking distance of local amenities eg shops, schools and medical centre. Moreover, existing public services along Warfield Street are inadequate, infrequent, irregular and unreliable, and even non-existent on Sundays, so the use of the private car by prospective residents will be inevitable and thus, significantly more traffic will be generated along Warfield Street than is currently predicted. Alleged 'improvements' to footpaths and public transport, proposed by the Council in the site Committee Report document, are nowhere near sufficient to make these two sites to the north of Warfield Street sustainable.



Inadequate bus service on Warfield Street: Bus Stop Suspension notice: 4-8 February 2019: 0900-1600 daily.

The unsustainability of the site does not stop there, as acknowledged by the Committee Report under Drainage Implications. Surface water flooding is already a key issue in the area and will continue to increase as a consequence of climate change. As stated in the Council's Sustainability Assessment, the application site is at risk of flooding from the nearby waterways, the River Cut and the Bull Brook, as well as the rising water table, so is not a suitable site for the proposed level of development. Indeed, areas of the site are at times waterlogged, as also confirmed by the Environment Agency, and Warfield Street itself is frequently flooded in different places along its length and for extensive periods of time throughout the year, meaning further ice in the winter.





Warfield Street: Risks include traffic, horses, pedestrians, blind bends, junctions, ice warning.

In addition, inadequate water supply and waste water systems are already stretched and not able to cope with existing housing, as evidenced by frequently occurring burst pipes and further flooding on Warfield Street and pavements. In Newell Green in early November 2018, there was a burst water main, causing loss of running water into many homes in the Warfield Street area, plus a gigantic hole to form in the road, so the road had to be closed for several days, making it unsafe and inconvenient for local residents (see attached email below of 8 November 2018 from the Warfield Church Vicar alerting Church members to the situation).



Dangers of Warfield Steet include traffic, junctions, horses, flood water, water works (visible in the distance).



A frequent site along the length of Warfield Street.

Due to climate change, flooding and environmental issues are set to get worse, as confirmed by the Draft Local Plan under Flooding and Drainage: 'The Climate Change Act 2008 demonstrates that climate change is a national policy priority. One of the major impacts of a changing climate is increased flooding. Flood risk is a combination of the probability and potential consequences of flooding from all sources including rivers, seas, rainfall, rising ground waters, sewers and drainage systems exceeding capacity. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change.' (9.37).

When considering this application, the appeal decision to accept the Newhurst Gardens site, though adjacent to the application site and also on land north of Warfield Street, should carry no weight, because the circumstances at the time of the appeal hearing and the Inspector's decision (March 2018) were very different to the current situation, especially in terms of the BF HLS. At that time, the appeal Inspector had little choice but to accept the appeal site for development as then, with only a 4.1 Year HLS, BFC was unable to demonstrate the critical 5 Year HLS Requirement, whereas now, with over 6 Years, there is no HLS shortage; indeed, BF Head of Planning, Max Baker, recently confirmed an additional 'robust buffer'.

In addition, while both sites share similarities, they are not the same and so have different characteristics, which need to be taken into account. The Herschel Grange application site, also a field in countryside, is sited alongside Gibbins Lane, a no-through lane/public footpath off Warfield Street, which almost directly abuts the application site to the west. The claim in the BF Committee Report that the site 'is visually enclosed by development to the south and west' (9.18) is not absolutely true, as the western side of the application site is visible from Gibbins Lane, where there is no housing development. Furthermore, the proposed housing development, currently an open field, directly abutting The Hermitage Mobile Home Park, will not only be clearly visible from the adjacent Park, but will also be extensively visible, through the demolition of 6 Herschel Grange and the widened site access, from, and will adversely impact the character of, Herschel Grange, and very likely Warfield Street too.

As the Committee Report confirms, the current use of the application site is for 'horse grazing' so, as well as adversely affecting the appearance and character of the site and its rural and semi-rural village surroundings, the proposal would significantly harm its existing function in supporting the important local 'horsiculture'.

In further consideration of the Herschel Grange application site, it is important to understand that the initial Draft BF Local Plan, unexpectedly published the day prior to the appeal hearing of the Newhurst Gardens site, the adjacent field to the Herschel Grange field, and was immediately taken into consideration by the Appeal Inspector during the appeal proceedings, whereas, as a Draft Plan, it should in fact carry no weight. The relevance of the last minute production of the Draft BF Local Plan was that the Newhurst Gardens appeal site, WAR10, and the current application site, WAR9 - both improbable and relatively small countryside sites outside settlement boundary - were allocated as two out of only 20 'preferred' sites for development out of a possible 100 SHELAA sites which included urban and brownfield sites which were not selected for potential development. The Newhurst Gardens appeal hearing on 16 January 2018 was even interrupted, in order for the 'hot off the press' Draft BF Local Plan to be brought to the Inspector's attention by the applicant's legal team, as the document was not familiar to either the Inspector or to attendees of the hearing (excluding the applicant's team).

In determining whether to accept or refuse the proposed site for development, consideration should also be given to other recent local planning applications and appeals with similar site and proposal characteristics to the Herschel Grange application (listed below), all of which have been refused by the Council or Inspector, even at times when BFC was not able to demonstrate a 5 year HLS - whereas now BFC is able to demonstrate a surplus HLS with a 'robust buffer':

- APP/R0335/W/18/3217574 - Appeal for 12 dwellings at Scotlands House site dismissed on 6/11/19 on grounds of impact on character and appearance of the area; BF can demonstrate 5 Year HLS.
- 19/00075/OUT - 197 dwellings on land west of Home Farm - refused on 10/10/19 on grounds of outside defined settlement within open countryside; unsustainable location; harmful urbanising impact; harm to setting and significance of listed building; fails to demonstrate safe/suitable access and protection/enhancement of biodiversity or assessment of impact on buried archaeological heritage; extra pressure on Thames Basin Heaths SPA; unacceptable pressure on highways and transport infrastructure, public open space, etc.
- 19/00229/FUL - 67 dwellings on land south of Foxley Lane, Binfield - refused on 4/7/19 on grounds of poor visibility to the detriment of highway safety for all users.
- 18/00765/FUL - 9 dwellings on Tilehurst Lane, Binfield - refused on 10/6/19 on grounds of harmful urbanising impact on character and appearance of countryside; harm to setting of neighbouring Grade II listed buildings; fails to demonstrate acceptable surface water drainage mitigation and that there would not be an adverse impact on biodiversity and breeding birds, which are of principle importance for conservation; need for a sustainable drainage system; pressure on local open space and community facilities.

- 18/00655/OUT - 68 dwellings at Beaufort Park, South Road, Wokingham - refused on 17/10/18.
- 18/00047/FUL - 12 dwellings at Scotlands House, Forest Road, Warfield - refused on 12/10/18 on grounds of harmful urbanising impact on character and appearance of the site and out of keeping with existing character of settlement; pressure on open local space, public footpath on the site, and local cycle network.
- 16/01196/OUT - 350 dwellings + amenities south of Foxley Lane, Binfield - Appeal refused in February 2018 due to impact on character, local roads, green buffer and air quality, plus concern due to its potential unsustainability.
- 15/01176/OUT - 75 dwellings west of Locks Ride, Winkfield - refused in April 2016 on grounds of unsustainability, out of character, danger to highways safety and pressure on Thames Basin Heaths Special Protection Area (SPA).

Conclusion

This Bracknell Forest designated Area of Character, the unique National Heritage 'horsiculture' village of Warfield Street with its beautiful undeveloped countryside to the north, must continue to be preserved in accordance with the current BFC Development Plan and all existing BF planning evidence - and thus protected from further unnecessary erosion by another housing development outside settlement together with the additional traffic that it will generate - or its intrinsic character, countryside, wildlife and traditions may be lost forever.

Now that BFC is able to demonstrate a substantial HLS, with a 'robust buffer', the development of the application site is surplus to requirement, plus there are other urban and brownfield sites in the Borough to be exhausted first in accordance with the NPPF, where harm caused by development would be significantly less. Continued unnecessary exploitation of our greenfield sites and rural landscape of trees, hedgerows, fields and grassland, enriched with wildlife and natural biodiversity, must stop now, in order to preserve all life, to survive the inevitable consequences of climate change, while also actively aiming to reduce it. BFC and Planning Councillors, therefore, bear a responsibility, not just to meet local present-day and short-term future needs, but to the environmental consequences and any precedent they may be setting for future planning decisions, in order to prevent further unnecessary erosion of greenfield countryside and loss of natural habitats and wildlife.

Only in May this year was a previous planning application for the same number of houses on the same site refused on the fundamental grounds of damage to countryside, biodiversity, protected species and priority habitats, green open space, surface water drainage and community infrastructure. None of these can be addressed in 6 months, so the assertion made in the latest Committee Report for this very similar, if not effectively the same application proposal, that the harm 'to the intrinsic value and beauty of the countryside, and to the semi-rural character of the site' would be 'minor' is inconsistent and unjustifiable. Similarly, the statement that the proposed development 'would not result in material harm to highway safety, biodiversity or drainage' is an untrue and irresponsible claim.

The decision now for the Council and Councillors is to weigh in the balance the BF identified 'harm to the intrinsic value and beauty of the countryside, and to the semi-rural character of the site' against the BF identified benefits of 'an above policy-compliant level of affordable housing, and the provision of housing generally'.

Taking all into account, the development of this uniquely located application site ultimately means irretrievable damage to countryside, climate, character and community, which far outweighs any potential benefit of generating surplus Housing Land Supply. For this reason, the Warfield Village Action Group respectfully requests that Bracknell Forest Council and Bracknell Forest Planning Councillors reject Planning Application 19/00497/FUL.

Thank you.

Please see attached documents below:



To whom it may concern,

Regarding the injury collision that occurred on 11th March 2016 at 16.30 hours, Police Reference URN 1213 of 11/03/2016 / 43/SW/100/03/16 involving a horse rider being thrown from her horse. I would like to confirm that the correct location should have been recorded as the B3034 Warfield Street near the junction with Newhurst Gardens and NOT Warfield Street near the junction with Old Priory Lane as initially recorded in the Police Report. The Police report has now been updated with the correct location.

Please do not hesitate to contact me should you wish to clarify anything .

PC144 Phil Martin

A handwritten signature in black ink, appearing to read 'Phil Martin'.

Officer In Case

Roads Policing Unit

Taplow

Thames Valley Police

07800703121 OR 101.

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