

# Agenda Item 42.

Application Number	Expiry Date	Parish	Ward
221788	15/09/2022	Arborfield	Arborfield;

<b>Applicant</b>	Charles Vickery
<b>Site Address</b>	Swallowbrook Julkes Lane Arborfield RG2 9JJ
<b>Proposal</b>	Full application for the proposed alterations to land levels to form orchard with raised vegetable beds
<b>Type</b>	Full
<b>Officer</b>	Baldeep Pulahi
<b>Reason for determination by committee</b>	Listed by Councillor Gary Cowen due to concerns over impact of localised flooding as a result of groundwork being carried out.

<b>FOR CONSIDERATION BY</b>	Planning Committee on Wednesday, 14 September 2022
<b>REPORT PREPARED BY</b>	Assistant Director – Place

<b>SUMMARY</b>
<p>This application seeks planning permission for alterations to land levels to form an orchard with raised vegetable beds.</p> <p>The alterations to the land levels would result in an 600mm-700mm increase from ground levels to form two level terraces and will accommodate the growing of apple, pear, cherry, and plum trees.</p> <p>Objections have been received on flooding, drainage, character, and neighbour amenity grounds.</p> <p>The principle of development is acceptable, and the scale of the proposal is appropriate in the context of surrounding development including the impact upon the adjoining Grade II listed building Carters Hill House and its countryside location.</p> <p>In regard to flood risk, this type of development has a vulnerability classification of ‘water compatible’ and the western boundary of the site is partially located in flood Zone 2. No adverse flooding impacts are envisaged as the works are outside Flood Zone 3 and the functional floodplain (Flood Zone 3A). In addition, there are no drainage impacts as there would be no impermeable surfaces.</p> <p>There is no detrimental impact upon neighbouring amenity and the planting of trees to form an orchard is to the satisfaction of the Council’s Tree and Landscape Officer.</p> <p>The development could have minor ecological impacts on common species therefore a Construction Environment Management Plan (CEMP) will need to be submitted as per Condition 3.</p> <p>Conditional approval is recommended.</p>

<b>PLANNING STATUS</b>
<ul style="list-style-type: none"> <li>• Countryside</li> <li>• Adjacent to Listed building (Carter’s Hill House)</li> <li>• Contaminated Land Consultation Zone</li> </ul>

- Flood Zone 2
- Bat Roost Habitat Suitability
- Minerals Site Consultation Area
- Landfill Gas Consultation Zone
- SSSI Impact Risk Zones
- Thames Basin Heaths SPA Mitigation Zones – 7km
- Public Rights of Way - ARBO Byway 4

## RECOMMENDATION

**That the Committee authorise the GRANT OF PLANNING PERMISSION subject to the following:**

**a) The following conditions and informatives:**

***Conditions***

**1. Timescale**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: In pursuance of s.91 of the Town and Country Planning Act 1990 (as amended by s.51 of the Planning and Compulsory Purchase Act 2004).*

**2. Approved Details**

This permission is in respect of the submitted application plans and drawings received by the local planning authority and labelled as follows:

Location Plan Swallowbrook  
 Landscaping Plan May 2022  
 Proposed Topography Plan,  
 Topography Survey received by the Local Planning Authority on 10/06/2022

and

A-A Section Plan  
 B-B Section Plan  
 Proposed Development and EA Flood Data Plan received by the Local Planning Authority on 05/08/2022

The development shall be carried out in accordance with the approved details unless other minor variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.

*Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the application form and associated details hereby approved*

**3. Construction Environmental Management Plan (CEMP)**

No development shall take place (including any further earth moving, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities

- b) Identification of biodiversity protection zones
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

*Reason: To minimise impacts on biodiversity in accordance with paragraphs 179 and 180 of the National Planning Policy Framework 2021.*

### **Informatives**

#### 1. Changes to approved plans

The applicant is reminded that should there be any change from the approved drawings during the build of the development this may require a fresh planning application if the changes differ materially from the approved details. Non-material changes may be formalised by way of an application under s.96A Town and Country Planning Act 1990.

#### 2. Pre commencement conditions

Where this permission requires further details to be submitted for approval, the information must formally be submitted to the Council for consideration with the relevant fee. Once details have been approved in writing the development should be carried out only in accordance with those details. If this is not clear, please contact the case officer to discuss.

#### 3. Hours of Work

No works relating to the development hereby approved including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 and 18:00 Monday to Friday and 08:00-13:00 on Saturdays and at no time on Sundays or Public Holidays.

#### 4. Byway to remain open and all machinery and plant equipment to be stored with the works area.

#### 5. Discussion

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the NPPF.

**PLANNING HISTORY** – There is no planning history for the parcel of land outlined in red subject of this application, the planning history relates to the residential dwelling known as Swallowbrook.

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
173/63	Detached bungalow on site of pair of existing cottages to be demolished	Conditionally Approved 08/11/1963
26340	Single storey extension to provide en-suite bathroom	Conditionally Approved 16/09/1986
210146	Application for a certificate of lawfulness for the proposed erection of a single storey side extension on the northwest elevation; a single storey side and rear extension on the southeast elevation; a rear dormer to facilitate conversion of the loft; 3 no. outbuildings to form a store, office and greenhouse, and a new driveway with 2 no. accesses.	Approved 07/04/2021
211585	Full application for the proposed erection of 1no. two storey detached dwelling with 3no. outbuildings (shed, greenhouse and car port), following demolition of existing dwelling.	Approved 26/07/2021
212760	Application for submission of details to comply with the following condition of planning consent 211585 dated 26/07/2021. Condition 3. External Materials. 4. Landscaping. 5. Protection of trees. 8. Electric vehicle charging strategy.	Replied 29/09/2021
213226	Application to vary condition 2 of planning consent 211585 for the proposed erection of 1no. two storey detached dwelling with 3no. outbuildings including shed, greenhouse, and car port, following demolition of existing dwelling. Condition 2 refers to approved details and the variation is to allow for alterations to external terrace, including the erection of a roof and changes to layout, erection of a first-floor rear balcony, plus changes to fenestration, and the insertion of 18no. solar panels.	Approved 02/12/2021

<b>ENFORCEMENT HISTORY</b>		
Enforcement Investigation No.	Description	Action
RFS/2021/086826	Excavation of land not in accordance with planning permission 211585	Case Closed – No breach 30/11/2021
RFS/2022/087071	Raising ground levels without permission	Case Closed - Application submitted 30/06/2022
RFS/2022/087393	Excavation work and soil / clay remains on site in flood plain area	Case Closed – No breach 04/07/2022

<b>CONSULTATION RESPONSES</b>
<b>Internal</b>
<p>WBC Environmental Health – No objections  WBC Drainage – No objections  WBC Enforcement – No comments received  WBC Ecology – No objections subject to Condition 3  WBC Landscape and Trees – No objections  WBC Public Rights of Way – No comments received  WBC Built Heritage – No objections</p>
<b>External</b>
<p>Berkshire Archaeology – No objections  The Environment Agency- No comments received within statutory time period</p>

<b>REPRESENTATIONS</b>	
Arborfield Parish Council	<ul style="list-style-type: none"> <li>• Flooding risk to neighbouring properties</li> <li>• To consider heritage assessment made in previous application</li> </ul>
Ward Members	<p><u>Comments received by Councillor Gary Cowen:</u></p> <ul style="list-style-type: none"> <li>• Listing request due to concerns over impact of flooding locally as a result of groundwork being carried out</li> </ul>
Neighbours	<p><u>8 neighbour objections have been received on the following issues:</u></p> <ul style="list-style-type: none"> <li>• Proposal will lead to flooding to neighbouring sites</li> <li>• Increased flood risk due to flood water being dispersed by proposed development</li> <li>• Soil on site is clay based (not topsoil) therefore land will no longer function as soakaway from floodwater or rainwater</li> </ul>

	<ul style="list-style-type: none"> <li>• Interference with current drainage (additional weight of soil will make it difficult to maintain drainage pipes)</li> <li>• Area around Barkham Brook is a floodplain</li> <li>• Reducing the volume of floodplain by retaining soil would raise water levels</li> <li>• The existing paddock is not a steep slope</li> <li>• Increasing levels of the paddock with clay based draining materials will increase run off and have a negative impact</li> <li>• Application site and neighbouring sites have already been subject to historic flooding events.</li> <li>• Submitted Flood Risk Assessment is inaccurate in relation to Historic Flooding events</li> <li>• Character impact upon Carters Hill House (Grade II Listed Building)</li> <li>• Planting of trees will overshadow the bottom of the garden at Carters Hill, resulting in loss of light and loss of residential amenity.</li> <li>• Covenants have been put in place following the sale of Swallowbrook and the paddock to endeavour to protect the status of Carters Hill House and for the benefit of the surrounding area this includes the height of boundary fences and any dividing fence. This proposal to raise the ground level goes against these covenants.</li> </ul>
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<b>APPLICANTS POINTS</b>
The proposed development would enable the operation of a sustainable rural enterprise and would not result in an adverse impact on the character of the area, including its countryside and landscape setting.

<b>PLANNING POLICY</b>		
National Policy	<b>NPPF</b>	National Planning Policy Framework
Adopted Core Strategy DPD 2010	<b>CP1</b>	Sustainable Development
	<b>CP3</b>	General Principles for Development
	<b>CP7</b>	Biodiversity

	<b>CP8</b>	Thames Basin Heaths Special Protection Area
	<b>CP9</b>	Scale and Location of Development Proposals
	<b>CP11</b>	Proposals outside development limits
Adopted Managing Development Delivery Local Plan 2014	<b>CC01</b>	Presumption in Favour of Sustainable Development
	<b>CC03</b>	Green Infrastructure, Trees, and Landscaping
	<b>CC09</b>	Development and Flood Risk (from all sources)
	<b>CC10</b>	Sustainable Drainage
	<b>TB21</b>	Landscape Character
	<b>TB23</b>	Biodiversity and Development
Supplementary Planning Documents (SPD)	<b>BDG</b>	Borough Design Guide

<p><b>PLANNING ISSUES</b></p> <p><b>Background</b></p> <p>1. Planning permission was granted in 2021 for the erection of a detached dwelling at the site known as Swallowbrook. Following an Enforcement Investigation under ref: RFS/2022/087071, it was established that the ground level was being raised using material from the construction related to planning permission 211585. The alteration in the levels is an engineering operation that requires planning permission.</p> <p><b>Site Description</b></p> <p>2. The application site comprises of 0.11 hectares of undeveloped land (referred to as a paddock) to the rear of the residential property known as Swallowbrook.</p> <p><b>Proposal</b></p> <p>3. The proposal involves the reprofiling of the upper part of a paddock located to the rear of the residential property and the Barkham Brook. The lower part of the paddock does not form part of the site but is within the applicant's land ownership.</p> <p>4. The proposal will include a reduction in the gradient of the site in order to accommodate the growing of apple, pear, cherry, and plum trees, including raised vegetable beds, cumulatively forming an orchard.</p> <p>5. The landscaping will involve the creation of two-level terrace areas with slopes between them. The submitted plans identify the two-level terrace areas in blue and green.</p> <p>6. The lower terrace area highlighted in blue will be 700mm above ground level (41.6 AOD to 42.3 AOD).</p>
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7. The upper terrace area highlighted in green will be 600mm above ground level (42.6 AOD to 43.2 AOD).

### **Principle of Development**

8. The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan (MDD) Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay unless material considerations indicate otherwise.
9. The application site is within the countryside and policy CP11 of the Core Strategy states *'In order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside of development limits will not normally be permitted'* apart from the exceptions listed within the policy. One of the exceptions is where:
- 1) It contributes to diverse and sustainable rural enterprises within the Borough, or in the case of other countryside-based enterprises and activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside; and
  - 2) It does not lead to excessive encroachment or expansion of development away from the original buildings; and
  - 3) It is contained within suitably located buildings which are appropriate for conversion, or in the case of replacement buildings would bring about environmental improvements; or
  - 4) In the case of residential extensions, does not result in inappropriate increases in the scale, form or footprint of the original building;
  - 5) In the case of replacement dwellings, the proposal must:
    - i) Bring about environmental improvements
    - ii) Not result in inappropriate increases in the scale, form or footprint of the original building
  - 6) Essential community facilities cannot be accommodated within development limits or through the re-use/replacement of an existing building;
  - 7) Affordable housing on rural exception sites in line with CP9.
10. The submitted Cover Letter refers to the proposal meeting the objectives of a sustainable rural enterprise i.e., the sale of surplus fruit from the orchard however the Council is of the view the commercial use of the orchard will trigger the requirement for a new planning application.
11. The submitted Cover Letter further goes onto state the proposal complies with Criterion 2 i.e., does not lead to excessive encroach or expansion of development away from the original buildings. It is noted here the original building as per the definition *"in relation to a building existing on 1 July 1948, as existing on that date and, in relation to a building built on or after 1 July 1948, as so built"* has been demolished, however the proposal will be concentrated to the north of the site at the rear with an approximate 15 metre distance from the dwellinghouse (approved under 211585) which is currently under construction.

12. Overall, the Council consider the proposal will preserve the openness and rural character of the countryside and as such complies with the National Planning Policy Framework 2021 and Policy CP11 of the Core Strategy 2010.

### **Character and appearance including landscaping**

13. Paragraph 170(b) of the National Planning Policy Framework requires that planning applications enhance the natural and local environment by '*recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*'

14. Policy CC03 of the MDD Local Plan aims to protect green infrastructure networks, retain existing trees, and establish appropriate landscaping and Policy TB21 requires consideration of the landscape character.

15. The site is in the countryside and comprises a small field in an area of open agricultural land to the rear of Swallowbrook and Carters Hill House. The natural gradient of the land slopes away from the dwellings to fields beyond to the south. There are hedges and some trees to the south-eastern and western boundaries, but the remaining boundaries are open.

16. The proposals include partially levelling the parcel of land to the northeast and the garden boundaries to provide an even surface for planting an orchard and placing vegetable beds. The Council's Landscape Officer raises no objections for the use of the land as an orchard, and the spacing shown for the trees on the submitted plans is acceptable. No further planting plan or details are required by the Council's Landscape Officer.

17. The proposal will have limited visibility from the rear of the wider site, however given the minor change in land levels and suitable tree planting; the proposal would not result in a detrimental impact upon the character of the area, nor the countryside setting and would help to improve the landscape character of the application site.

### **Heritage**

18. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that development must ensure the preservation of any nearby listed building, including its setting, Paragraphs 192-196 of the NPPF requires consideration of the harm to the significance of a designated heritage asset and Policy TB24 of the MDD Local Plan requires the conservation and enhancement of Listed Buildings, including their views and setting.

19. Objections have been raised that the proposal will have a detrimental impact on the historic topography of the rear aspect and surrounding land including impact upon the character of Carters Hill House.

20. The site is an area of grassland of a roughly rectangular shape with its length orientated in north-westerly direction across and beyond the south-western boundary of the grounds of Carters Hill House, a Grade II listed building that is approximately 20 metres from the boundary.

21. Given the nature of the proposal, to alter the land levels for use as orchard with raised vegetable beds, and the intervening distance between the site and the listed building, it is considered its immediate setting would remain unaffected. As such no objections are raised by the Council's Built Heritage Officer on heritage grounds.

### **Neighbour Amenity**

22. Policy CP3 of the Core Strategy aims to protect neighbouring amenity.

23. Objections have been raised the planting of trees will overshadow the bottom of the garden at Carters Hill, resulting in loss of light and loss of residential amenity.

24. In reference to this point, the Council's Landscape Officer has stated it is unlikely the number of proposed trees will result in a detrimental overshadowing impact upon the garden of Carters Hill with fruit trees usually having a medium canopy coverage as opposed to a dense canopy coverage. It is considered that the proposed trees will be maintained at a height where the fruit can be reached without difficulty.

25. In respect of noise and other disturbance, this would be limited to the engineering operation required to contour the land, and therefore would not result in any long-term harm. It is suggested an informative is included to keep construction work associated with the development within the standard hours of 08:00-18:00 Monday to Fridays, 08:00-13:00 Saturdays and no work on Sundays and public holidays.

26. Overall due to the nature of the works and the sufficient separations distances to the residential plots adjoining the application site, the development would not result in any significant impact on the amenity of the occupiers of neighbouring dwellings on grounds of overlooking, loss of light or overbearing.

### **Highways Access and Parking Provision**

27. No soil would be transported from land outside the application site or the connecting property of Swallowbrook. Whilst there will be a need to bring trees on site to complete the works, this is not development and can be undertaken at any time, furthermore there will only be a minimal number of traffic movements during the construction phase and no long-term increase in traffic movement once works are completed. As such there are no unacceptable highway safety implications.

### **Flood Risk and Drainage**

28. Section 10 of the NPPF, Policy CP1 of the Core Strategy and Policies CC09 and CC10 of the MDD requires flooding protection, sustainable drainage methods and the minimisation of surface water flow.

29. The applicant has submitted a Flood Risk Assessment (ref P22431\_R1), this has been reviewed by the Council's Drainage Officer. The application is predominately located within Flood Zone 1, with the western boundary of the site being partially located within Flood Zone 2. The principle source of flood risk in the vicinity of the site is Barkham Brook, located southwest of the site. The Council's Drainage Officer has stated the development has a vulnerability classification of 'water compatible'.

30. The Flood Risk Assessment refers to the 1 in 100 year + 14% scenario being 41.4m aOD. On this basis the Council's Drainage Officer raises no objections on the development as the works themselves are outside Flood Zone 3 and the functional floodplain (Flood Zone 3A). *(N.B. the 14% scenario has been put forward following changes by the Environment Agency on the climate allowances for different catchments).*

31. In terms of drainage, there would be no impermeable surfaces created by the recontouring, and for the following reasons, the level tree planted terraces cannot be expected to generate as much surface water runoff as the existing unplanted steeper slope:

- Canopy cover interception – Slowing rain before it makes contact with the ground; and
- Root system infiltration – Roots help water penetrate deeper into the soil at a faster rate under and around trees. This means less surface run-off and more water storage in the soil.

32. For this type of development in this location, the Government Planning Practice Guidance advises that standing advice should be followed in conjunction with an assessment by the Lead Local Flood Authority. In this case the development does not conflict with the requirements of this standing advice

### **Ecology**

33. Policy TB23 of the MDD required the incorporation of new biodiversity features, buffers between habitats and species of importance and integration with the wider greener infrastructure network.

34. The proposal seeks to change land levels on the site to create an orchard using the soil from previous excavations on the site. The site appears to be grassland covered with mounds of soil and is likely to be much more beneficial for wildlife.

35. The proposals would have minor adverse ecological impacts on small numbers of common species of reptiles and amphibians (such as common frog and slow worm); therefore, the Council's Ecology Officer requires a Construction Environment Management Plan (for biodiversity purposes) is submitted prior to development. This is secured by Condition 3.

### **Environmental Health**

36. No objections are raised by the Council's Environmental Health Officer on the proposal, it is noted that the wider site is located approximately 140m from an area of filled ground known as Park Farm Carters Hill and therefore falls within a landfill gas consultation zone. Given the distance to the site and level of risk it is not considered that gas protection measures will be required.

### **Archaeology**

37. The application site is one of the archaeological potential and is within a 1km radius of the site and lying in close proximity to Area of High Archaeological Potential as designated by Policy TB25 of the Council's Managing Development Local Plan.

38. The applicant has clarified there will be no excavation other than as necessary to install sufficient drainage channels just below the surface of the land in order to drain the land. On this basis the Council's Archaeology Officer raises no objections to the proposal.

#### **Public Right of Way**

39. The proposal will not have an impact to the byway (Julkes Lane) or the public footpath. An informative is included to ensure the byway is kept open and all machinery is to be within the works area only.

#### **Thames Basin Heaths Special Protection Area**

40. The site is located within 7km of the TBH SPA however the proposal does not relate to a net increase in residential development therefore no objection is raised.

#### **Community Infrastructure Levy**

41. The proposal does not involve any internal floorspace and therefore is not liable for CIL.

#### **The Public Sector Equality Duty (Equality Act 2010)**

42. In determining this application, the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts upon protected groups as a result of the development.

#### **CONCLUSION**

43. The alterations to the ground levels are considered acceptable on flooding, drainage, landscaping, and neighbour amenity aspects. Therefore, it is recommended that this application is approved subject to the above conditions as it accords with the National Planning Policy Framework and the Council's Development Plan policies.