

Application Number	Expiry Date	Parish	Ward
223592	25 January 2023	Finchampstead	Finchampstead North

<b>Applicant</b>	Mr Patrick Bancroft
<b>Site Address</b>	Land to the rear of 6 Johnson Drive, Finchampstead RG40 3NW
<b>Proposal</b>	Full application for the erection of 5no. dwellings with double garages following removal/demolition of the existing outbuildings
<b>Type</b>	Full
<b>Officer</b>	Simon Taylor
<b>Reason for determination by committee</b>	Listed by Councillor Margetts for the following reasons: a) Development in the countryside b) Poor site sustainability c) Residents should be allowed a right to voice opinions

<b>FOR CONSIDERATION BY</b>	Planning Committee on Wednesday 11 January 2023
<b>REPORT PREPARED BY</b>	Assistant Director – Place and Growth
<b>RECOMMENDATION</b>	<b>APPROVAL</b> subject to conditions and informatives and completion of a s106 legal agreement relating to SANG and SAMM mitigation, delivery of an affordable housing commuted sum, delivery, management, and maintenance of roads to adopted status and provision and management of the landscaped wildlife area

## SUMMARY

- 1) The site comprises 1.37 hectares of open land at the rear of 6 Johnson Drive and part of the residential curtilage of 6 Johnson Drive. Residential properties within the settlement limits adjoin the western boundary but the site lies within open countryside and outside of the development limits.
- 2) Two warehouse buildings on the eastern boundary including their curtilage are used for storage purposes. Until recently, a large portion of the southern end of the site was used for the storage of motor vehicles, most of which were unroadworthy. As part of a 2022 enforcement appeal decision, the vehicles were removed from the site and the site is almost entirely open. That appeal decision is currently the subject of a High Court challenge, due to be heard in March 2023 and there remains some contentions surrounding that decision.
- 3) The subject application seeks to demolish the two warehouse buildings and erect five, larger detached dwellings with associated parking and access roads. The application has been listed by the ward member and an objection was received from Finchampstead Parish Council, both citing concerns with development in the countryside and a lack of site sustainability. There have been 11 neighbour submissions.
- 4) There is a long history of refusals and dismissed appeals on the site, extending to enforcement cases relating to unlawful uses and for large scale residential schemes. Most recently, a 2019 appeal decision dismissed a residential scheme for 25 dwellings on the grounds of detrimental impact upon the character of the locality and as it would not encourage the use of sustainable transport modes or provide realistic choice to support the opportunities for reducing the need to travel by car.

- 5) That decision was made when the Council was able to demonstrate a housing supply of 6.39 years. This is no longer the case. The subject scheme is also a much smaller development (5 dwellings versus 25 dwellings (including a flat building)). The same issues of development within the countryside and harm to the character of the area (albeit to a lesser scale), and its unsustainable location, remain valid. However, paragraph 11 of the NPPF engages the titled balance and in doing so, any adverse impacts need to 'significantly and demonstrably outweigh' the benefits, when assessed against the policies in this Framework taken as a whole. Those identified social benefits include the delivery of much needed housing and a policy compliant affordable housing contribution, whilst environmentally the proposal includes a landscaped wildlife area at the north and west of the site, delivered via s106 agreement.
- 6) Subject to pre-commencement details such as a site remediation (Condition 3), Construction Management Plan and Environmental Management Plan (Conditions 3 and 4), landscaping and biodiversity details and mitigation measures (Conditions 5-9 and 19), highway details (Conditions 10 and 11), bin collection arrangements (Condition 12) and lighting details (Condition 15), the application represents an acceptable outcome and approval is recommended.

#### RELEVANT PLANNING HISTORY

- 7) There is a long and detailed history for the site, with the tables below summarising relevant planning and other applications, appeals and enforcement action. The summary thereafter provides detail to the history.

#### Certificates and changes of use

Reference	Description	Decision
T/1996/64687	Temporary change of use of land for storage of new vehicles	Refused 10 February 1997
CLU(E)105	Certificate for existing lawful use for the storage of unregistered motor vehicles	Refused 1 October 1998
T/APP/X/99/X0360/003156	Appeal against refusal of CLU(E)105	Part upheld 10 November 1999
APP/X0360/C/99/1028620/1	Linked appeal against enforcement notice associated with CLU(E)105	
TP/2001/3383	Temporary and retrospective change of use of land for storage of motor vehicles	Refused 5 April 2001
CLE/2001/3818	Certificate of lawful existing use of land for seven buildings and land for storage of plant and materials.	Approved 12 February 2002
TP/2002/5895	Temporary change of use of land to storage of cars	Refused 5 April 2002
F/2002/6913	Demolition of seven storage buildings and removal of open storage and replacement with two new storage buildings	Refused 28 October 2002
F/2003/9103		Approved 15 October 2003
F/2007/1070	Change of use for the siting of three storage containers	Refused 28 June 2007

183248	Certificate of lawful use for the storage of inert waste	Refused 4 March 2019
183255	Certificate of lawful use for the storage of builder's plant and materials	Refused 5 March 2019
APP/X0360/X/19/3224190	Appeal against the refusal of 183248	Public Inquiry appeal withdrawn 5 October 2020
APP/X0360/X/19/3224195	Linked appeal against the refusal of 183255	

### Planning applications for residential development

Reference	Description	Decision
O/30127	52 dwellings	Refused 14 June 1988
T/APP/H0330/A/88/092313	Appeal against refusal of O/30127	Dismissed 18 September 1989
O/2001/4418	30 dwellings	Refused 1 May 2002
O/2001/5276	48 dwellings (outline)	Withdrawn 29 November 2001
O/2001/5362	50 dwellings (outline)	Refused 9 January 2002
APP/0360/A/01/1076708	Linked appeal against refusal of O/2001/4418	Dismissed 1 May 2002
APP/X0360/A/02/1081441	Linked appeal against the refusal of O/2001/5362	
160162	34 dwellings	Refused 3 May 2016
172230	25 dwellings (outline)	Refused 11 May 2018
APP/X0360/W/18/3205487	Appeal against refusal of 172230	Dismissed 19 November 2019

### Enforcement Matters

Reference	Description	Decision
00712/E	Change of use from residential to include storage of motor vehicle	Notice Served 1 April 1999
076677	Building materials being stored in breach of condition.	Breach of Condition 27 September 2005
076683	Storage of building materials outside of storage buildings.	Breach of Condition 20 September 2006
076884	Storage of shipping containers and cement mixers.	Unauthorised Change of Use 26 November 2008
077293	Laying of track and the storage of a container on site.	No Breach 19 June 2009
077842	Storage of vehicles outside of permitted area.	No Breach 14 May 2008
077907	Storage of vehicles outside area of approved under CLUED	No Breach 2 April 2008
2010/00412	Building materials are being transported onto land.	No Breach July 2010

Reference	Description	Decision
2015/065344	Ground base being created to accommodate a large structure	No breach 20 October 2015
2016/082966	Unauthorised storage of building materials and site hut	Voluntary Compliance June 2016
2016/083264	Unauthorised storage of building materials and scaffolding	Enforcement notice served 15 November 2017
2019/084943	Car business	No breach February 2019
2019/085230	Storage of scrap vehicles	No breach August 2019
2019/085271	Unauthorised use of this land to store scrap	No breach September 2019
2019/085368	Unauthorised storage outside permitted area	Voluntary compliance 11 February 2020
2020/085678	Unauthorised storage outside permitted area	Notices issued 9 November 2020
2020/085685	Selling of car parts waste tipping/storage	
APP/X0360/C/20/3264819	Appeal against notice for 2020/085678 (storage of builders' materials)	Upheld 5 August 2022 (notice quashed)
APP/X0360/C/20/3264827	Appeal against notice for 2020/085685 (CoU to include vehicle breaking, amongst other uses)	Dismissed 5 August 2022 (notice upheld)
CO/3164/2022	High Court challenge against appeal decision of APP/X0360/C/20/3264827 and APP/X0360/C/20/3264819	To be heard 8 March 2023

- 8) The site once formed part of 'California', before being subdivided at some point in the early 1900s. The dwelling at 6 Johnson Drive dates from c1975. There have been several refused applications for residential development on the land to the rear of 6 Johnson Drive since:
- 30127/O proposed the construction of 52 dwellings. An appeal was later dismissed on the grounds of harm to the rural character
  - O/2001/4418 proposed the construction of 30 dwellings. It was refused for reasons of the urbanising effect upon the openness of the area outside the settlement boundary, loss of greenfield land, inappropriate dwelling mix, lack of services and infrastructure and loss of trees
  - O/2001/5276 proposed the construction of 48 dwellings, but the application was later withdrawn
  - O/2001/5362 proposed the construction of 50 dwellings. It was refused for reasons of harm to the character of the countryside, lack of contributions for services and infrastructure, its unsustainable location, harm to protected species and lack of space for the restocking of trees that had previously been removed
  - A linked appeal against the refusals of O/2001/4418 and O/2001/5362 was dismissed. The appeal referred to the effect upon the character of the area, sustainability, whether it was efficient use of land and an appropriate mix of dwellings, whether the harm was outweighed by the Council's housing need and whether it was premature and prejudicial to the local plan process
  - 160162 proposed the construction of 34 dwellings. It was refused for the following reasons, with an appeal later withdrawn:

- 1) Outside the settlement boundary and within an unsustainable location
  - 2) Out of character and harm to the visual character of the countryside
  - 3) Inadequate parking, layout, access, and visibility splays
  - 4) Harm to protected trees
  - 5) Poor amenity afforded to Plots 7 and 16-24 caused by trees
  - 6) Harm to protected species
  - 7) Lack of mitigation for the Thames Basin Heaths SPA
  - 8) Lack of affordable housing
- g) Application 172230 proposed the construction of 25 new dwellings inclusive of a six-unit flat building. It was refused on 11 May 2018 for the following reasons:
- 1) Location outside of development limits in the countryside
  - 2) Impact upon character and visual amenity
  - 3) Sustainability of the location
  - 4) Impact upon protected trees and mature trees
  - 5) Impact upon protected species
  - 6) Parking provision
  - 7) Mitigation in relation to the Thames Basin Heaths SPA
  - 8) Absence of a legal agreement to secure affordable housing
- h) An appeal against the refusal was dismissed on 19 November 2019. In the decision letter (APP/X0360/W/18/3205487, attached as Appendix 6), the Inspector summarised the following main issues at paragraph 5:

*“As a consequence of the above and from all I have seen, read, and heard, I consider the main issues in this case are:*

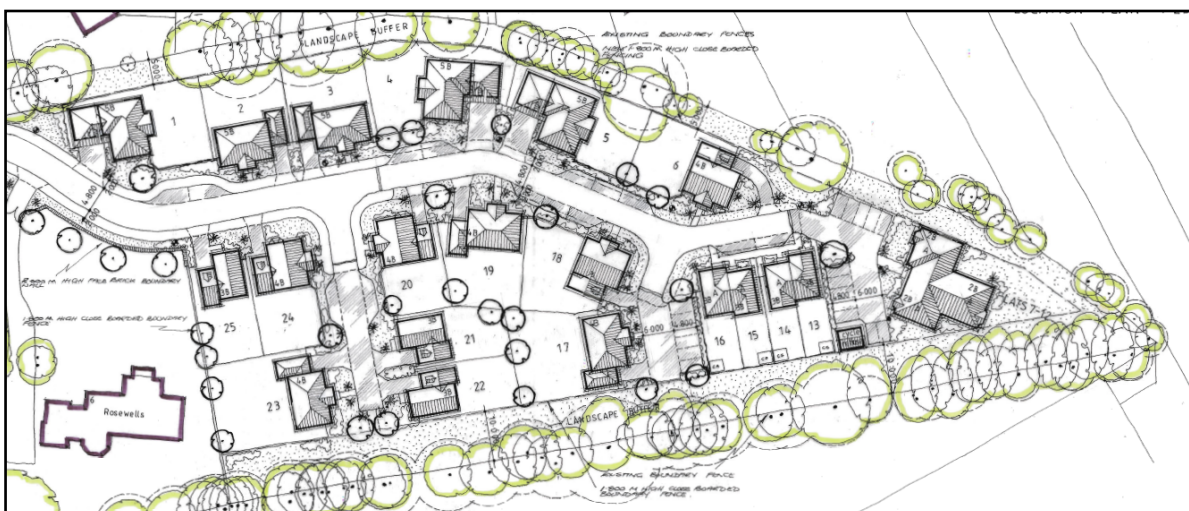
- *the impact of the proposal on the character and appearance of the locality;*
- *whether the development is in a sufficiently accessible location to encourage the use of sustainable transport modes; and*
- *compliance with development plan policy and the planning balance”*

- 9) Concurrently, there have been several applications and enforcement matters relating to unlawful storage uses:
- i) T/1996/64687 sought a temporary change of use for the storage of cars. It was refused as it represented an unacceptable use and scale in a residential area
  - j) CLU(E)105 stemmed from enforcement action and involved a certificate for existing lawful use for the storage of unregistered motor vehicles on land at the southern end of the site. It was refused but an appeal was upheld within a more concentrated area
  - k) TP/2001/3383 proposed the temporary and retrospective change of use for the storage of unregistered motor vehicles. It was refused because of increased harm to the rural character.
  - l) CLE/2001/3818 granted a certificate to seven existing buildings along the eastern boundary for the storage of building plant and materials
  - m) F/2002/6913 and F/2003/9103 proposed two storage buildings and an open storage area as a replacement to the buildings in CLE/2001/3818. F/2002/6913 was refused because of harm to the character of the area but F/2003/9103 was approved with Condition 3 prohibiting any external storage
  - n) 183548 involved a certificate for the storage of inert waste and 183555 for the storage of builder's plant and materials. Both certificate applications were refused owing to a lack of substantive information. An appeal against both decisions was later withdrawn.

- 10) The most recent enforcement matter relates to two enforcement notices issued on 16 November 2020:
- o) Notice A: Without planning permission, the material change of use of the land to a mixed use including the external storage of builder's materials, plant and equipment, fencing, builder bulk bags, shipping containers, general/assorted waste products, inert waste and the like and the storage of motor vehicles, vehicle breaking, vehicle disassembly and the sale of vehicle parts
  - p) Notice B: The breach of planning control alleged in the notice is failure to comply with condition 3 of a planning permission Ref F/2003/9103 granted on 15 October 2003
- 11) These notices were appealed. Notice A was dismissed, and Notice B was upheld, the former requiring removing items from the southern part of the site and the latter allowing external storage on the eastern boundary. The items specified in Notice A have since been removed from the land, but the appeal decision is the subject of a High Court challenge set down for March 2023 and there is some contention around both notices.
- 12) As a comparison tool, the site plans for applications 160162 and 172230 for 34 and 25 dwellings are included below along with the subject proposal for five dwellings.



Proposed site layout for 160162



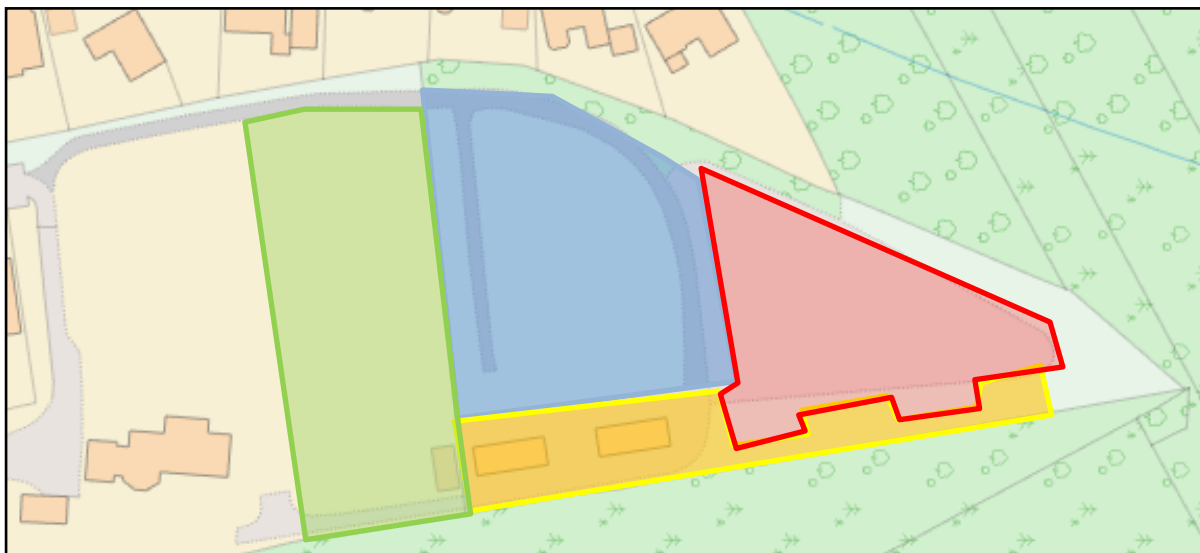
Proposed site layout for 172230





Site plan for subject application

- 13) The following aerial view also illustrates the current (disputed in parts) status of the site:



Current status of site. Key:

Blue: Area of 1999 certificate for storage of motor vehicles currently the subject of High Court challenge

Orange: Area of lawful storage as allowed in Appeal B of 2022 enforcement appeal

Red: Area of open countryside alleged by applicant to be subject to open storage by virtue of under enforcement as concluded by Inspector in 2022 appeal decision (issue remains unresolved)

Green: Residential curtilage of 6 Johnson Drive

## DEVELOPMENT INFORMATION

	Existing	Proposed
Land use	Mixed use of storage and open countryside*	Residential with open countryside to the north and edges
Proposed units	Two warehouse buildings	Five detached dwellings
Floorspace	228m <sup>2</sup> across two warehouses and a shed	1851m <sup>2</sup> across five dwellings
Density	Not applicable	4.7 dwellings per hectare

Affordable dwellings	Not applicable	40% policy compliance via commuted sum
Parking spaces	No formal parking	Double garage and driveway parking

\* With the current High Court challenge, there remains some dispute about the lawful nature of the land

## CONSTRAINTS

- Countryside (Settlement edge)
- Tree Preservation Order (TPO-1642-2018 around perimeter of site)
- Nitrate vulnerable zone (surface water: Emm Brook)
- Flood Zone 1
- Farnborough Aerodrome consultation zone
- Heathrow Aerodrome wind turbine safeguarding zone
- Bat consultation zone
- Great Crested Newt Consultation Zone
- Thames Basin Heath Special Protection Area (5km zone)
- Non-classified road
- Nuclear Consultation Zone
- Water Utility Consultation Zones

## CONSULTATION RESPONSES

WBC Environmental Health	No objection, subject to a noise report, plant attenuation, lighting details and unexpected contamination details.  <u>Officer comment:</u> Given the density of the development and its location within a residential setting, noise reports or attenuation are not necessary. A CMP is required in Condition 4, remediation details are required in Condition 3 and lighting details are required in Condition 15.
WBC Drainage	No objection subject to drainage details in Condition 13.
WBC Highways	Objection raised on sustainability grounds and due to lack of information relating to pedestrian access and refuse turning circles.  <u>Officer comment:</u> Issues of sustainability are discussed at paragraph 9-12. Additional information has resolved the remaining issues. A CMP is required in Condition 4, Conditions 10 and 11 have been applied with respect to highway construction details and Conditions 19 and 20 in relation to parking and access roads.
WBC Growth and Policy	No objection, subject to delivery of a commuted sum by s106 agreement.
WBC Green Infrastructure	No comments received.
WBC Trees and Landscaping	No objection, subject to landscaping details, tree protection and management arrangements in Conditions 6, 7 and 9.
WBC Ecology	No objection, subject to a Construction Environmental Management Plan (Condition 5), biodiversity mitigation measures (Condition 8), a Landscape and Ecology Management Plan (Condition 9) and compliance with the Ecology Appraisal in Condition 19.
SE Water	No comments received.



Natural England	No objection, subject to an Appropriate Assessment and provided there are no other likely significant effects. See Appendix 3.
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## REPRESENTATIONS

Finchampstead Parish Council	<p>Objection raised due to development outside the settlement limits and not within an allocated site, thus being contrary to the Finchampstead Neighbourhood Plan. It is also within an unsustainable location.</p> <p><u>Officer comment:</u> These matters are discussed in paragraphs 5-12 and in the Conclusion at paragraph 89 onwards.</p>
Ward Member	<p>Councillor Charles Margetts objected to the application and listed the matter for Planning Committee on the following grounds:</p> <ul style="list-style-type: none"> <li>• This site is in the countryside</li> <li>• The planning history has been controversial for 20 years due to endless applications and enforcement issues</li> <li>• The public transport links to this site are poor and there is no cycleway and no bus service</li> <li>• Residents should have an opportunity to raise concerns</li> </ul> <p><u>Officer comment:</u> These matters are discussed in paragraphs 5-12 and in the Conclusion at paragraph 89 onwards. The applicant undertook community consultation of residents prior to the submission of the planning application.</p>
Neighbours	<p>The application was consulted to 51 neighbouring residents from 5-28 December 2022, extended to account for bank holidays. A further extension was agreed to accept any final representations until 9 January to reflect the impacts of postal strikes. Submissions were received from the following properties:</p> <ol style="list-style-type: none"> <li>1) 1 Johnson Drive, Finchampstead RG40 3NW.</li> <li>2) 2 Johnson Drive, Finchampstead RG40 3NW.</li> <li>3) 5 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>4) 8 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>5) 10 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>6) 12 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>7) 20 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>8) 21 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>9) 22 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>10) 23 Tomlinson Drive, Finchampstead RG40 3NZ</li> <li>11) 25 Tomlinson Drive, Finchampstead RG40 3NZ</li> </ol> <p>The submissions raised the following issues:</p> <ul style="list-style-type: none"> <li>• Development outside the settlement limits and not within an allocated site in the Finchampstead Neighbourhood Plan</li> <li>• Green countryside will be destroyed</li> <li>• Loss of green gap between Finchampstead and Wokingham</li> <li>• Impact to the rural character</li> </ul>

- Lack of sustainability (public transport and cycle lanes)
- Development will be visible from Tomlinson Drive

Officer comment: These aspects weigh against the development, as noted in paragraphs 5-12, and is discussed in the Conclusion at paragraph 89 onwards. A Landscape and Visual Impact Assessment was submitted as part of the application. It is acknowledged that the development will be visible from vantage points.

- Johnson Drive is inadequate for construction vehicles
- Lack of width to Johnson Drive for construction vehicles
- Lack of construction details (length, parking etc)
- What conditions are there to ensure construction traffic is dealt with?

Officer comment: Johnson Drive is wide enough for construction access, but final details are required in a Construction Management Plan and Method Statement in Condition 4.

- Access width for additional vehicles
- Access should be sufficient for two-way traffic and visibility
- Access from Nine Mile Ride is limited due to high levels of traffic, and this poses difficulties for construction traffic and bikes
- Increased traffic on and at the intersection of Nine Mile Ride
- Johnson Drive was not built for this level of traffic
- Access should be constructed prior to development as it is narrow, close to trees and lacks visibility
- Lack of visitor parking

Officer comment: The width of the access onto the site is 5m, which is sufficient for two-way access and not opposed by the Council's Highways Officer. With ample off-street parking for each dwelling, no visitor parking is required. There are no concerns with the level of traffic. These matters are discussed at paragraphs 48-54 and Condition 11 requires that the access be part constructed prior to commencement of development.

- Council rates should be refunded due to construction inconvenience

Officer comment: Construction impacts are short term and largely unavoidable but sought to be minimised through a CMP (Condition 4). Any proposal for a reduction in council tax is not a relevant planning consideration.

- The need for 100 per cent commitment from the developer to the exact plan for a maximum of 5 houses
- Monitoring programme is required to ensure development is built to its approval

Officer comment: The site plan indicates the siting of the five dwellings, and this would form an approved plan in Condition 2. Any departure would be subject to investigation by the Council's Enforcement department.

- Will not be accompanied by any additional infrastructure

Officer comment: The application is subject to CIL liability which is used for borough infrastructure projects. See paragraph 88.

- Planting is needed to ensure privacy

Officer comment: Due to a lack of amenity issues to neighbours, no additional planting is necessary, nor should it be relied upon to ensure a development is acceptable. See amenity comments at paragraphs 46 and 47.

- Impact upon flora and fauna
- Hedging is required for wildlife habitats
- Green space should be retained for flora and fauna
- Wildlife buffer needs to be wide enough to allow separation from road and not cause impacts to wildlife

Officer comment: The Council's Ecology Officer has reviewed the proposal and whilst there are some inconsistencies with documentation, the issues are not fatal to the application and no in principle objection is raised. This is detailed in Paragraphs 66-76 and when subject to Conditions 5, 6, 9 and 19.

- Maintenance of trees in the wildlife corridor during construction and future use of the site

Officer comment: Landscape management details are sufficient as a post consent requirement and are specified in Condition 9.

- Leaf fall will cause rot damage to fences

Officer comment: The level of leaf fall is unchanged from the current situation and does not form an issue related to the proposed development.

- Site is prone to localised flooding
- Impact upon existing drainage

Officer comment: The Council's Drainage Officer has reviewed the proposal and raises no objection as detailed in paragraphs 82-84 and subject to final details in Condition 13.

- Previous applications have been refused

	<p><u>Officer comment:</u> The titled balance assessment from paragraph 89 explains the rationale for a different recommendation to previous applications.</p> <ul style="list-style-type: none"> <li>• Lack of neighbour notification</li> <li>• Lack of site notice</li> <li>• Application form refers to incorrect address</li> <li>• Consultation should be extended due to Royal Mail strikes and Christmas period</li> </ul> <p><u>Officer comment:</u> The application was consulted to 51 properties which is in excess of that required in accordance with the Council's Statement of Community Involvement, which does not specify that a site notice is required to be installed on site.</p> <ul style="list-style-type: none"> <li>• Future applications could be submitted</li> </ul> <p><u>Officer comment:</u> The assessment can only consider the current application.</p>
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## PLANNING POLICY

- a) National Planning Policy Framework (NPPF)
- b) National Design Guide
- c) National Planning Policy Guidance (NPPG)
- d) Core Strategy 2010
  - Policy CP1 – Sustainable Development
  - Policy CP2 – Inclusive Communities
  - Policy CP3 – General Principles for Development
  - Policy CP4 – Infrastructure Requirements
  - Policy CP5 – Housing Mix, Density and Affordability
  - Policy CP6 – Managing Travel Demand
  - Policy CP7 – Biodiversity
  - Policy CP8 – Thames Basin Heaths Special Protection Area
  - Policy CP9 – Scale and Location of Development Proposals
  - Policy CP11 – Proposals Outside Development Limits
  - Policy CP17 – Housing Delivery
- e) Managing Development Delivery Local Plan 2014
  - Policy CC01 – Presumption in Favour of Sustainable Development
  - Policy CC02 – Development Limits
  - Policy CC03 – Green Infrastructure, Trees, and Landscaping
  - Policy CC04 – Sustainable Design and Construction
  - Policy CC06 – Noise
  - Policy CC07 – Parking
  - Policy CC09 – Development and Flood Risk
  - Policy CC10 – Sustainable Drainage
  - Policy TB05 – Housing Mix
  - Policy TB06 – Development of Private Residential Gardens
  - Policy TB07 – Internal Space Standards
  - Policy TB08 – Open Space, Sport, and Recreational Facilities Standards
  - Policy TB12 – Employment Skills Plan
  - Policy TB21 – Landscape Character

- Policy TB23 – Biodiversity and Development
- Policy TB25 – Archaeology
- f) Borough Design Guide Supplementary Planning Document
  - Section 4: Residential
  - Section 5: Streets and Spaces
  - Section 6: Parking
  - Section 8: Rural and Settlement Edge
- g) Finchampstead Neighbourhood Plan (limited weight)
  - Section 5: Appropriate Housing Development
  - Section 6: Design Policies
  - Section 7: Gaps and Settlements
  - Section 8: Identity and Rural Setting
  - Section 9: Getting Around
- h) Affordable Housing Supplementary Planning Document
- i) Sustainable Design and Construction Supplementary Planning Document
- j) CIL Guidance

<b>PLANNING ISSUES</b>
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### **Proposal**

- 1) The proposal involves the following:
  - Demolition of existing warehouse buildings on the site and clearance of the remaining stored items
  - Redevelopment for five x 5-bed dwellings with detached/attached garages
  - New private access road extending from the existing entrance from Johnson Drive along the western boundary, branching into three cul-de-sacs
  - Associated site works including landscaping, tree planting and boundary fencing
  - Delivery of a landscape and wildlife area to the northern and eastern end of the site

### **Site Description**

- 2) The 1.37-hectare site is in a backland location on the northern side of Nine Mile Ride in Finchampstead. It is accessed via Johnson Drive, which currently serves seven other backland residential properties, including 6 Johnson Drive. It is within the countryside but adjoins the modest development location of Finchampstead North along most of its western boundary and part of its southern boundary.
- 3) Immediately to the south but partly included within the site is a part one/part two storey dwelling house, with access drive and garden known as 6 Johnson Drive. To the north of this plot is the site, which comprises two main outbuildings along the eastern boundary which are used for storage of building materials along with vehicles interspersed across the site. These parts of the site are surrounded by unmade tracks with an assortment of largely unorganised building plant, materials and waste, vehicles and machinery, general and inert waste, and other paraphernalia interspersed across the rest of the site although the northern end of the site, where it tapers to a very narrow width, is less occupied by materials. The site is surrounded by woodland, but much of the site itself is cleared of any substantive landscaping.

- 4) This area of Finchampstead North is characterised by detached dwellings on narrow, deep plots on both sides of Nine Mile Road which have evolved over time since the initial commencement of development in the 1930s, more recent (post 1970s) development away from the Rides to the west and a 1990s development immediately adjoining to the west (Tomlinson Drive). Woodland adjoins to the north and along the eastern boundary, with some sporadic historic residential dwellings set amongst the woodland.

## **Principle of Development**

### Location with the Countryside

- 5) Policy CP11 of the Core Strategy does not normally permit new development in the countryside, with the aim being to protect the separate identity of settlements and maintain the quality of the environment. Residential development of the site, even where it involves the replacement of the existing dwellings, does not fall within the limited list of exceptions. They are:
- A sustainable rural or recreational enterprise, where it does not lead to excessive expansion away from the original building and is contained within a building suitable for conversion
  - Residential extensions or replacement dwellings where it does not result in inappropriate increases in scale, form or footprint or would bring about environmental improvement
  - Community facilities
  - Affordable housing on rural exception sites adjacent to modest or limited development locations and a localised need is demonstrated
- 6) Paragraph 78 of the NPPF also aims to promote sustainable development in rural areas, with housing located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Section 5 of the Finchampstead Neighbourhood Plan has not included the site for housing allocations and Section 5.5 makes clear that development should adhere to Policy CP11 regardless of their landscape or ecological qualities.
- 7) Because of the undetermined High Court challenge, there remains some dispute as to existing land uses (see the plan at paragraph 13 of the property history above). The applicant would assert the site benefits from an existing storage use for motor vehicles to the southern part of the site and for builders' materials to much of the rest of the site, owing to under enforcement in the issuing of a previous enforcement notice. There is some argument, in the Council's view, that only the eastern part of the site benefits from a storage use. Nonetheless, the site is almost entirely greenfield and is not previously developed land (PDL) because the definition of PDL relates to areas that comprise permanent structures. Land within the curtilage of 6 Johnson Drive is also greenfield as it is expressly excluded as garden in the definition in the NPPF. This overall conclusion is the same conclusion at paragraph 57 of the 2019 appeal decision with reference to about 10% of the site being PDL.
- 8) Irrespective of the above dispute, development of the site, even where it involves the replacement of the existing buildings and removal of existing uses would be contrary to Policy CP11, particularly where there is encroachment of development and a

degree of harm to the character of the area. This is noted in the 2019 appeal decision for 25 dwellings where the Inspector noted at paragraph 43 that *“Given my conclusion in respect of the scheme’s harmful impact on the character of the area, the proposal would conflict with the purpose of CP11 in regard to the maintenance of the quality of the environment.”*

#### Site sustainability

- 9) Policies CP6, CP9 and CP11 of the Core Strategy permit development where it is based on sustainable credentials in terms of access to local facilities and services and the promotion of sustainable transport. Expanding on this, paragraph 4.57 aims to prevent the proliferation of development in areas away from existing development limits as they are not generally well located for facilities and services and would lead to the increase in use of the private car.
- 10) The 2019 appeal decision referenced walking distances and the quality of the walking environment to services and facilities, access to public transport and cycling infrastructure in dismissing the appeal. At paragraph 41 of the decision notice, the following summary is provided:

*“I consider that any assessment should be grounded in realism as to whether a reasonable choice of alternative modes of transport exists in the specific circumstances of a proposal to provide an option to minimise car use. Overall, I am not convinced that the characteristics of the proposal’s location would encourage the use of sustainable transport modes or provide realistic choice to support the opportunities for reducing the need to travel by car. As such, there would be conflict with the thrust of CS Policies CP1 and CP6.”*
- 11) There is no change in circumstances that would make the site more accessible. The applicant suggests that the reduction in the number of dwellings (from 25 to 5), their siting closer to the entrance and the onset of home working would collectively lead to fewer movements of private vehicles such that the site would now be sustainable. The Council does not share this conclusion, noting that the quantum of development is of minimal relevance as to whether the site is sustainable or not. Rather, the five dwellings are oversized with ample car parking included within the design. The site remains outside of convenient walking distance of most day-to-day facilities and services such as schools, retail and leisure facilities and medical services and this will continue to discourage future residents from choosing to walk over using the car. The bus service also does not meet the Council’s definition of a good service with no bus shelters.
- 12) EV charging is proposed (details required by Condition 16) and the siting of the dwellings further to the south of the site would offset a degree of harm on sustainability grounds. On the latter, the dwellings would be less removed from Nine Mile Ride than some of the existing dwellings in Tomlinson Drive. However, the site would still be viewed as unsustainably located, resulting in increased reliance on private vehicle movements in day-to-day activities.

#### **Character of the Area**

- 13) Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must



be of high-quality design. There are also various guidelines in the Borough Design Guide which aim to protect the character of the area, including development not harming wider views and according to the predominant built form of the rural area.

- 14) Policy TB06 of the MDD Local Plan also seeks to avoid inappropriate development of residential gardens where there is harm to the local area. Permission would only be granted to build within the garden of 6 Johnson Drive where there is a positive contribution to the built form and surrounding spaces, integration with the layout of the surrounding area, appropriate hard and soft landscaping, amenity space, building separation and compatibility with the general building height. R22 of the Borough Design Guide SPD has similar requirements.
- 15) Policy CC02 of the MDD Local Plan states that development at the edge of settlements is acceptable where it is demonstrated that it is within development limits and respects the transition between the built-up area and the open countryside by taking account of the character of the adjacent countryside and landscape. RD9 of the Borough Design Guide SPD also requires that development on the settlement edge create an edge and incorporate soft landscaping to integrate to the rural setting.
- 16) Policy D2 of the Finchampstead Neighbourhood Plan seeks to preserve the rural character and Policy D3 opposes garden developments. Policy GS1 requires development to demonstrate that it would not adversely affect the function of the gap or wedge, and not unacceptably reduce the physical and visual separation of settlements (or distinct parts of a settlement) either within or adjoining the borough.

#### Density

- 17) Policy CP5 of the Core Strategy and Policy TB05 of the MDD Local Plan require an appropriate dwelling density. Discounting the wildlife area, the proposed density is about four dwellings per hectare. This compares with the 14 dwellings per hectare on the northern side of Nine Mile Ride, reducing to about 11 dwellings per hectare in the back areas of the cul-de-sac of Tomlinson Drive. Whilst much lower than the surrounding area, it achieves a satisfactory transition to the countryside as envisaged by Policy CC02 and RD9 and it takes account of the tree and ecology constraints.
- 18) Of additional relevance, there is a need to compare bedroom density because of the larger dwellings in the subject application when compared with the varied dwelling mix of the 2019 appeal. The 2019 appeal had 84 bedrooms or 76 bedrooms per hectare. The subject application has 25 bedrooms or 30 bedrooms per hectare. Whilst not a proportional reduction given the development is reducing from 25 to 5 dwellings, the development is still sympathetic to its surrounds and no issue is raised in this regard.
- 19) It also resolves the concerns of the Inspector in the 2019 appeal at paragraph 21 where the 18.2 dwellings per hectare departed from the density of 11.5 dwellings per hectare at Tomlinson Drive.

#### Built form

- 20) The cumulative scale of the five dwellings totals 1295m<sup>2</sup> in footprint and a volume of about 6900m<sup>3</sup> with 1490m<sup>2</sup> of additional hardstanding for access. This compares with the 190m<sup>2</sup> footprint and 750m<sup>3</sup> volume of the existing warehouses and

residential shed within 6 Johnson Drive with negligible areas of hardstanding in an otherwise open field. This represents a substantial increase in footprint and volume of 550% and 820% respectively.

- 21) Compared with the 2019 dismissed appeal, though, there is a reduction of approximately 50% in footprint and volume. It would be anticipated that the reduction would be more significant given an 80% reduction in the number of dwellings however the proposal is for five large family sized dwellings to target a certain market and reflect the character and composition of the immediate area. The form and footprint are significant though they are sited on large open plots of 1000-1400m<sup>2</sup>. The ratio of footprint to site area is about 20% and this compares with the 17-21% of properties in Tomlinson Drive to the west.
- 22) Building height is two storeys or 9.5m with large roof planes allowing ample space for loft conversions in the future. The dwellings are still of relatively significant height, it is a relatively minor departure from the 8.4m height of the properties adjoining to the western boundary and the existing dwelling to the south at 6 Johnson Drive. Moreover, the site is contained within its own cul-de-sac and with boundary woodland, has a limited visual relationship with the surrounding area and therefore such deviation is not considered to cause any material harm.
- 23) Overall, there is recognised as being additional encroachment of development, substantial built form, and a degree of harm to character of the area. The scale and form of the dwellings is significant and somewhat larger than the detached form of many other dwellings in the backland areas of Nine Mile Ride, or to the existing dwelling at 6 Johnson Drive.

#### Landscape visual assessment

- 24) A Landscape and Visual Impact Assessment (LVIA Ltd, November 2022) was submitted with the application. It contains five viewpoints from Johnson Drive, Tomlinson Drive, Nine Mile Ride and Range Road (two). It concludes that *"With the implementation of a successful mitigation strategy, the overall impact on the landscape is considered to have a minor/negligible overall effect on the surrounding landscape character and a negligible effect on the visual baseline. It should be considered that this type of development is not out of character within the receiving landscape."*
- 25) The Council's Landscape Officer does not object to the methodology or conclusions, arguing that the much lower density of this scheme differentiates it from the 2019 appeal. It is more in keeping with the surrounding residential character, particularly where it was previously remarked that density should markedly reduce as it travels close to the settlement edge, and not intensify, as with the 2019 Appeal where the Inspector remarked:

*"However, the 25 dwellings would result in a form of development that would be of a higher density than that which is immediately neighbouring, particularly in relation to housing within Tomlinson Drive<sup>6</sup>. The dwellings fronting the main access would for the most part have shallow front gardens, unlike those in Tomlinson Drive which lend a more open feel to that development."*

- 26) Further, the new proposal retains and protects existing landscape features, especially the trees, placing them in a setback of 8-10m around the site which is larger than envisaged in the 2019 appeal. There is no risk to these trees from the development whereas there were incursions and pressure from the higher density of the 2019 appeal.

### Siting and pattern of development

- 27) The Inspector in the 2019 appeal decision made the following observations at paragraph 20:

*“The mature trees along the eastern and western boundaries would be retained, with, respectively, 10m and 5m buffer zones incorporated to form an ecological corridor and for protection for the trees. These would therefore provide a degree of landscape mitigation for development within the site. Nonetheless, despite the presence of the storage uses and the two storage buildings, the majority of the site has a current predominantly open character. This would be replaced by an overtly suburban housing development.”*

### Pattern of development along Nine Mile Ride

- 28) Nine Mile Ride historically had properties fronting the road but has evolved over time to include many backland properties, the developments at Tomlinson Drive and Johnson Drive being examples of these. The proposal would, in effect, not introduce a new backland departure from Nine Mile Ride, but in effect continue the existing cul-de-sac of Johnson Drive northwards. Where the 25-dwelling scheme in the 2019 appeal continued to the northern tip of the site (and included a flat building in this area), the subject application would extend no further than 22 Tomlinson Drive which is the northernmost property to the west. This is considered a more appropriate level

of infilling which would not extend further than the northernmost extent of existing built form.

- 29) Plot sizes are larger than the average of the surrounding area. This is reflective of the immediate area and is considered much more appropriate to its backland location and transitional role to open countryside. On its own, there is little justification for opposing this aspect of the development.
- 30) There is a varied presentation to the street with inward facing developments at Plots 1, 2, 4 and 5 and Plot 3 in the centre orientated to face outwards or to west. It comprises a non-linear road layout with three arms to the cul-de-sac adding to the lack of regimentation that is evident within the Rides. There is no hard edge to the public and private domain. Though feasible, the layout and rhythm are one that it would appear unlikely that front fences would be built though this weighs only marginally against the scheme.
- 31) The properties enjoy deep gardens reflective of the semi-rural setting. Front setbacks are about 6m but with a maximum of two properties sharing a cul-de-sac, there is no opportunity or overriding need for consistency. With wide plots, there is ample building separation.

#### Ancillary matters

- 32) Close boarded fencing is proposed along the edges of each plot but there is a strong policy requirement to implement post and rail fencing to the edge of the site and other wildlife friendly measures as well as hedgerow planting to transition to the countryside and woodland and ensure movement of wildlife as part of the biodiversity measures for the site. This forms Condition 7.
- 33) Materials are specified as plain clay roof tiles, red bricks with contrasting plinth and arch lintels and uPVC windows and eaves for all five dwellings. Some diversity across the plots would be welcomed to add contrast to the site. Details of rainwater materials and garage doors and paving have not been provided and therefore, Condition 14 requires these details prior to commencement.
- 34) Other than detached garages to four of five plots, there are no proposed outbuildings. With cycle parking able to be accommodated within garages, there is little need for other sheds. Class E permitted development rights are required to be removed (Condition 26) to reduce pressure on the TPO protected trees and wildlife areas and therefore, there no real prospect of clutter across the site. Condition 24 also requires the retention of garages for parking thus minimising potential for undesirable parking outcomes within the public domain.

#### Conclusion

- 35) The scale and height of the dwellings are generous but within large open plots. Density is appropriate and it results in much less pressure on the woodland at the site's perimeter. The layout ensures a loose continuation of the existing cul-de-sac but within large plots in a woodland setting. Whilst there is a degree of inconsistency in siting and orientation of dwellings that departs from the pattern and layout of the area, this can be seen as an attempt to transition away from the more regimented

arrangement of Nine Mile Ride to the countryside/woodland beyond. Overall, there remains a degree of additional encroachment that weighs against the scheme.

- 36) However, there are measurable improvements from the 2019 appeal scheme where the Inspector noted the following at paragraph 28:

*“Overall, the proposal would not result in a meaningful acceptable transition between the present settlement edge and the defined countryside beyond as a result of the form and nature of the development and this would be harmful to the landscape character of the area.”*

### **Dwelling Mix**

- 37) Policy CP5 of the Core Strategy requires an appropriate mix of dwelling types, tenures, and sizes so that the housing needs of the community are met. Policy TB05 of the MDD Local Plan requires an appropriate housing mix which reflects a balance between the underlying character of the area and both the current and projected needs of households. The Berkshire (including South Bucks) Strategic Housing Market Assessment (February 2016) identified future housing need for the Wokingham Borough. Table 107 (on page 295) identifies the need for 7% (1-bed), 27% (2-bed), 43% (3-bed) and 22% (4+-bed),
- 38) The proposed dwelling mix of 100% x 5-bed dwellings is contrary to policy although it is towards the end where the greater demonstrated need exists (65% for larger dwellings). However, it is consistent with the surrounding area as the immediate area comprises a greater proportion of larger dwellings and given the small scale of the scheme, the departure does not warrant refusal of the application on its own.

### **Affordable Housing**

- 39) Policy CP5 of the Core Strategy, Policy TB05 of the MDD Local Plan, the Affordable Housing SPD and Policy ADH5 of the Finchampstead Neighbourhood Plan specify an affordable housing rate of 40% for any development involving five dwellings or more on land with a total area of 0.16 hectares or more. Both triggers are met, and this equates to two dwellings. The applicant is accepting of a policy compliant delivery of affordable housing.
- 40) Because of the small scale of the development and the size of the dwellings, the only practical means of delivery for the affordable housing is through a commuted sum. Based on the Viability Study undertaken by Levvel Ltd, the Council's approach to calculating commuted sums for affordable housing is based on the difference in the residual development value of a scheme without on-site affordable housing and the same scheme with on-site affordable housing. The commuted sum sought in-lieu of two dwellings is £294,557.79 index-linked and this would form part of a section 106 agreement.

### **Accessibility (including the Equality Act 2010)**

- 41) 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. Policy CP2 of the Core Strategy

also seeks to ensure that new development contributes to the provision of sustainable and inclusive communities, including for aged persons, children and the disabled.

- 42) There is no indication or evidence that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities and there would be no significant adverse impacts because of the development. Notwithstanding, the need to design and build accessible and adaptable accommodation remains integral to future neighbourhood planning and measures identifying level access, accessible parking and adaptable and accessible dwellings are required in Condition 17, specifying that one dwelling (20% of the development) should be built to M4(3) standards.

### **Housing Amenity**

- 43) Policy TB07 of the MDD and R17 of the SPD require adequate internal space to ensure the layout and size achieves good internal amenity. The Technical housing standards – nationally described space standard specify a minimum internal floor area of up to 134m<sup>2</sup>. There are requirements in relation to bedroom sizes and widths, living spaces depending upon the occupancy and storage. All five dwellings comply with the minimum standards.
- 44) R18 of the Borough Design Guide SPD requires sufficient sunlight and daylight to new properties, with dwellings afforded a reasonable outlook, dual aspect, and no material impact on levels of daylight in the habitable rooms of adjoining properties. The road network and siting and orientation appears to have been designed so that development takes adequate advantage of access to sunlight and outlooks in accordance with the above and paragraphs 127, 130, 150 and 153 of the NPPF. Whilst Plot 3 is at a different orientation, it would not result in any discernible reduction in the residential amenity of future occupiers.
- 45) R16 of the SPD requires a minimum depth of 11m for rear gardens and a 1m setback from the site boundary to allow access thereto. Compliance is achieved in each case with the minimum depth being 20m at Plot 4. This suits the edge of settlement location and low density of the scheme.

### **Neighbour Amenity**

- 46) Policy CP3 of the Core Strategy aims to protect neighbouring amenity. Guidelines in the Borough Design Guide SPD include R15 which requires the retention of reasonable levels of visual privacy to habitable rooms, with separation of 22m to the rear and 10m to the street; R23 notes that the side walls must not contain windows, especially at first floor level; R16 also requires separation distances of 1.0m to the side boundary and 11m to the rear boundary and R18 aims to protect sunlight and daylight to existing properties, with no material impact on levels of daylight in the habitable rooms of adjoining properties. Habitable windows of adjoining properties must not be obstructed by a 25-degree angle and two storey extensions must not obstruct a 45-degree line back towards a habitable window of the adjoining property.
- 47) The density, siting, setbacks and scale of development, the absence of neighbours to the north and east and the retention of protected landscaping along the boundary are such that there are no neighbour amenity issues across the boundaries of the site.

There is also a satisfactory relationship within the development, with appropriate siting, orientation and separation providing good levels of amenity. Condition 22 requires obscure glazing to side windows to Plots 1, 4 and 5 to limit overlooking across the side boundary of another property.

## **Parking and Access**

### Parking

- 48) Policy CC07 and Appendix 2 of the MDD Local Plan stipulates minimum off street parking standards, including provision for charging facilities. Each dwelling is provided with a double garage and driveway parking for at least two vehicles. This is more than adequate and would also account for visitor parking. The dimensions of the double garages are acceptable, and these garages can be used to store cycles.
- 49) EV charging points are required in line with Building Regulations Approved Document S, or one per dwelling. This is outlined in Condition 15.

### Access

- 50) Access is via the existing drive/access track that extends north from Johnson Drive. It will be widened to 5m wide which allows for two cars to pass. This is sufficient given the levels and types of traffic expected within the site. Swept paths and turning circles have confirmed that refuse vehicles and fire tenders can access and turn within the site with the turning head being at the first of the cul-de-sacs. Existing levels of visibility are acceptable with straight line access onto Johnson Drive. Internally, there are sufficient levels of visibility and because of the scale of the development, the width of the road, the service margins identified on the plans, the shared surface/lack of pavement and private unadopted nature of the road are such that conditioning of any pedestrian visibility is unnecessary.
- 51) There is no intention for Council adoption of the roads but delivery to adoption standards is required by Condition 10. Details of management and maintenance and the Borough's inspection fee and the APC bond form part of the s106.
- 52) There is a sufficient service margin of at least 2m on both sides of the road, but no pavement provided. The applicant has indicated that the roads would be shared surface by pedestrians and vehicles with the intention being to give priority to residents and to create a sense of place. Given the scale of the development, the Council's Highways Officer has reviewed this arrangement in line with Manual for Streets and raises no objection.

### Traffic

- 53) The Council's Highways Officer is content that the traffic generated from this development would not have an adverse impact on the highway network. This extends to movements onto Johnson Drive and at the intersection with Nine Mile Ride. Given the scale of the development, a Transport Statement was not required.
- 54) A Construction Management Plan and Method Statement is required in Condition 4. This will deal with traffic movements onto the site, including within Johnson Drive or the existing track and any impediments. The width of Johnson Drive and levels of



existing traffic does not present any foreseeable reasons to preclude development of the site.

## Landscaping and Trees

- 55) Policy CC03 of the MDD Local Plan aims to protect green infrastructure networks, promote linkages between public open space and the countryside, retain existing trees and establish appropriate landscaping and Policy TB21 requires consideration of the landscape character.
- 56) The site lies within the M1: 'Finchampstead Forested and Settled Sands', Landscape Character Area (LCA) of Wokingham Borough Landscape Character Assessment (WBLCA). It is a landscape of high quality, strong character, and a strong sense of place with a distinctive pattern of elements. The LCA is considered to be in good condition with overall moderate sensitivity. The landscape strategy is to '*conserve and enhance existing character*'. '*The key aspects to be conserved and actively managed are the characteristic forestry and woodland, the rarer open landscapes. In terms of development, the aim is to conserve and enhance the rural setting and gaps between settlements and maintain the low-density domestic character of development*'.
- 57) The majority of the site boundaries are populated by a combination of woodland and tree belt protected by TPOs 1642/2018 and 361/1998. The boundary to the east of the appeal site is adjacent to a woodland containing deciduous and evergreen (coniferous) trees. The woodland adjacent to the site boundaries strengthens the remote character, sense of enclosure and tranquillity, especially in the northern half of the appeal site. The western and north-western boundary of the site is adjacent to rear gardens of Tomlinson Drive, and Kiln Ride.
- 58) A Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement have been received. Some tree removals are planned but these are minimal and are classified as 'C' or lower and include an Apple tree (T33), G32 a group of mixed native species trees; Oak, Poplar, Willow, Sycamore within the open paddock area, G34 ornamental conifers in the paddock, G35 a mix of garden shrubs and ornamental conifers, and G1 Leyland Cypress within a small part of the boundary to the access road. A small section of the woodland W31 close to the boundary with Plot 2 is to be removed. The Council's Trees Officer raises no objection to these removals.
- 59) As the majority of the site vegetation is located to the site edges, it is entirely possible to design a layout that avoids the tree constraints. The tree root protection area (RPA) on the western boundary is preserved intact with the access road/extension of Johnson Drive avoiding the RPA completely. An absence of footways aids in avoiding the RPA. A 10m wide buffer around the site will help to 'contain' the canopy edge of the trees on the eastern side away from the development, or Plot 2 specifically as the remaining four dwellings are well away from the trees except for the detached garage of Plot 1 which will be located beneath the canopy of T25. Neither of these instances are a cause for concern and pruning of protected trees are controlled via the Council.
- 60) The setback provides protection for the existing trees and is 10m wide on the east and west sides and narrows down to 7-8m on the west side towards the Landscape

and Wildlife Area. Within the buffer on the east side is a Wildlife Corridor which looks like a path next to the boundary hedge which extends to part of the boundary of 6 Johnson Drive. This area will naturally connect with the wider woodland, and landscape and wildlife area to the north of the development. These spaces create a visual setting around the development and help it integrate within the wider landscape setting, in a way that the neighbouring dwellings do at Tomlinson Drive and Kiln Ride.

- 61) The scheme retains and protects the existing trees on the site, recognising them as the providing high quality ecological value, along with the woodland beyond the site periphery. Although there are some incursions into the root protection area of trees close to a planned pedestrian path, this incursion could be removed with the removal of the path and extension of the landscaped verge.
- 62) A substantial amount of new landscaping is proposed. It will be important that it is well maintained and looked after so that it thrives into maturity. Where the centre of the site is so open it will be important to ensure that trees and landscaping is placed to enhance and integrate the scheme within the existing landscape character of this area of Finchampstead. The use of the open space within the site provides large garden spaces, and incidental spacing for landscape enhancements around the site, with management details required by Condition 9 thus enabling new planting to thrive and enhance the already high-quality landscape features that exist around the site. Leaving the space at the northern end of the site as an open landscape/wildlife area builds on the wildlife corridors and will enhance opportunities for biodiversity. This approach reflects the use of the long gardens of Kiln Ride which are basically woodland and open glades within the woodland.
- 63) There is no issue with shading over gardens except potentially into a small part of the garden of Plot 2 in the morning. The rear gardens are generous - between 20-30m in length, and have front gardens associated with access and driveways. No in-principle objection is raised, with landscape details in Condition 7 bringing positive and extensive landscape schemes to complement the boundary and woodland setting.
- 64) No objection is raised by the Trees and Landscape Officer on landscape and tree grounds. Class E permitted development rights are removed (Condition 265) to remove pressure on the protected trees and wildlife areas at the boundary of the site.

## **Ecology**

- 65) Policy TB23 of the MDD Local Plan requires the incorporation of new biodiversity features, buffers between habitats and species of importance and integration with the wider green infrastructure network.
- 66) The site contains mostly grassland, storage buildings, and scattered deciduous trees but is surrounded by woodland to the north and because of this landscaped setting, there are good ecological opportunities within the surrounding area, including for bats, reptiles, and Great Crested Newts. The ecological surveys demonstrate that the proposed demolition of the buildings is unlikely to impact upon a bat roost but there is good foraging and commuting opportunities for bats and the north of the site which is not subject to disturbance or light spill. There is also a known badger settlement and local wildlife site 40m and 70m to the north respectively, as well as generally good opportunities for nesting birds, hedgehogs, reptiles, and amphibians. Historic reptile

surveys confirmed the presence of reptiles in the northern Landscape Wildlife Area which is proposed to be retained with a buffer around the site boundary.

#### Mitigation and management

- 67) There is a lack of information in relation to any negative impact on the retained reptile population including amid the plans for “a large area of new woodland”, including woodland management to improve the habitat. There is also a degree of inconsistency with native or ornamental planting and Condition 7 requires consistency with the Ecology Appraisal to ensure that there are no significant negative residual impacts anticipated on any protected or notable species.
- 68) To limit the impact upon reptiles, details of a reptile mitigation and enhancement strategy are required as part of broader Landscape and Ecology Management Plan in Condition 9, Details of monitoring maintenance, funding, and management responsibilities in the LEMP are to be secured via a s106 agreement to ensure that it is properly managed and maintained and accountability is not left to individual residents.
- 69) The documentation fails to acknowledge that the Landscape Wildlife Corridors are only as wide as the trees and hedge protected under TPO-1642-2018-G1 and TPO-1642-2018-G2 and that there is no buffer outside the Construction Exclusion Zones that protect the Root Protection Areas. Nonetheless, to minimise potential impacts to protected or notable species during site vegetation clearance and construction, precautionary mitigation measures are secured by Condition 19. The rabbit warren identified on the banks of the earth bund should be carefully dismantled to minimise the risk of harming any animals. A Construction Environmental Management Plan in Condition 4 will aid in successful delivery.
- 70) The detail, function, and constraints to development and conservation during the occupation phase and long-term enhancement and management of the retained TPO'd Wildlife Corridor are not provided. The ecologist proposes that on completion of the project, the boundary corridor and wildlife area must be managed appropriately to ensure that the habitats remain suitable for reptiles. The LEMP at Condition 9 addresses this aspect.

#### Lighting

- 71) The site supports habitat for foraging and commuting bats. Artificial lighting is known to result in the loss of foraging habitat available and can also interfere with commuting routes. Wildlife including mammals, birds, amphibians, and invertebrates is disturbed and/or discouraged from using foraging areas and this disturbance can constitute an offence under wildlife legislation. To limit harm, an external lighting strategy is required in Condition 14. It shows how and where external lighting will be installed so that it can be clearly demonstrated that the boundaries of the site will not be illuminated would be conditioned. Street lighting is not proposed.

#### Drainage

- 72) The Ecological Appraisal and Arboricultural Assessment does not properly assess the impact of the attenuation tanks or any connection to or works within the ditch as proposed in the Drainage Strategy upon the Landscape Wildlife Area. The most

appropriate solution, as part of the drainage hierarchy is for reconsideration of the location of the attenuation tanks to protect reptile and protected mammal habitat and avoid constraining opportunities for biodiversity enhancement. See Condition 13.

### Biodiversity enhancements

- 73) Paragraphs 174 and 179 of the NPPF aim to minimising impacts on and providing measurable net gains for biodiversity. A BNG metric has not been submitted with the planning application. Having regard to the fact that this is not a major application, that the requirements are not yet legislatively required, and the previous storage uses have degraded the status of the land somewhat, there is no specific requirement for demonstration of at least 10% biodiversity net gain and the Council's Ecology Officer is content with this approach.
- 74) Instead, the application includes a Landscape Wildlife Area and Corridor of 8-10m depth around the site. This is consistent with but larger than proposed in the 2019 appeal. The Council's Ecology Officer has noted that the trees in the corridor have not been fully surveyed nor have impacts of mitigation planting or management recommendations been provided. Further, the Tree Survey Schedule includes none of the crown lifting works agreed as part the 2019 appeal process including increasing sunlight and improved habitat for reptiles. This can be addressed in Conditions 6 and 8 (tree protection and biodiversity mitigation and enhancements respectively).
- 75) Section 5.2 of the Ecological Appraisal recommended native trees and shrubs within the landscape planting plan, installation of an integrated bird box and integrated bat box within each new dwelling and hedgehog friendly fencing. This is, by definition, contrary to policy because it fails to deliver these measures as part of the proposal. Nonetheless, this detail and that of additional ornamental planting within residential frontages to encourage year-round interest and pollinators (as proposed in Section 5.12 of the Planning Statement is required in Condition 8 to ensure adequate mitigation.
- 76) Inappropriate replacement tree planting in the Landscape Wildlife Area would need to be removed due to potential negative impacts for TPO trees and shrubs and reptile grassland habitat which is proposed to be protected and improved. Any planting not occurring in this area would need to be offset elsewhere within the site. Consistency is required in final details sought as part of landscape details in Condition 7 and biodiversity details in Condition 8.

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

- 77) Policy CP8 of the Core Strategy states that where development is likely to have an effect on the Thames Basin Heaths Special Protection Area (TBH SPA), it is required to demonstrate that adequate measures to avoid and mitigate any potential adverse effects are delivered.
- 78) The subject application includes a net increase of five dwellings on a site that is within 5km of the TBH SPA. Policy CP8 states that where there is a net increase in dwellings within 5km of the SPA, an Appropriate Assessment is required to be undertaken. This is undertaken at Appendix 3. The necessary mitigation is outlined in a Section 106 agreement in the form of the provision of Suitable Alternative Natural

Greenspace (SANG) at Rocks Nest Wood. The total SANG contribution is £21,203.10 and the total SAMM contribution is £6,080.

### **Building Sustainability**

- 79) The application makes no specific references to sustainability measures and in the absence of robust policy for minor developments of less than ten dwellings, there is a reliance upon Part L of the Building Regulations to deliver sustainability measures within the construction process and through the use of the dwellings.

### **Waste Storage**

- 80) The large plot sizes allow sufficient space for waste, recycling, and compost storage such that there is no necessity for waste storage details to be submitted. The tracking plan for a refuse vehicle implies that the collection would be at the head of the southern cul-de-sac. The carry distance for collection is suitable but the walking distance for the occupants of Plot 2 (worst case scenario) would be about 50-60m. Three of the five dwellings would be more than the 30m standard accepted as a suitable distance in Manual for Streets. However, within the scope of the larger plot sizes resulting in greater walking distance, the need to minimise hard surfacing within a greenfield site and when recognising that the departure from the standard is not overly significant, this issue does not justify refusal of the application and no objection is raised. Details of the collection facilities are, however, required by Condition 11.

### **Flooding and Drainage**

- 81) Policy CC09 of the MDD Local Plan requires consideration of flood risk from historic flooding. Policy CC10 of the MDD Local Plan requires sustainable drainage methods and the minimisation of surface water flow.
- 82) The site and access are within Flood Zone 1 and the proposal represents no additional flood risk or vulnerability.
- 83) There is some surface flooding along the western boundary as part of an existing drainage ditch and an objection was received in relation to localised flooding in the vicinity of this area. The application was supported by a Drainage Strategy report dated November 2022. The site falls from 67.4mAOD in the south to 63.2mAOD to the north, with a ditch in the west, flowing northward. Ground investigations revealed no groundwater and 6 trial pits, up to 1.2mbgl revealed infiltration rates from  $1.22 \times 10^{-6}$ m/s to  $6.81 \times 10^{-7}$ m/s. There is a foul sewer at Johnson Drive for discharge into, while surface water runoff, split into road runoff and roof runoff will discharge to the western watercourse, at the combined rate of 4.9l/s, for the 1.3ha site. As connection is proposed to an existing watercourse, an ordinary watercourse consent may be required. Tanked and lined attenuation is proposed, to cater for the 1 in 100 flood events, with a 40% allowance for climate change, with maintenance by a management company, in accordance with section 7.1.6 of the above strategy report. Micro-drainage calculations indicate that 59.4m<sup>3</sup> of storage is required and 66.5m<sup>3</sup> will be provided.
- 84) The Council's Drainage Engineer has reviewed the information and raises no objection, subject to final details in Condition 13. There is, however, a degree of

conflict with the comments of the Ecology Officer, as specified at paragraph 72. It is not fatal to the application as it is concluded that connection to the ditch can be achieved without undue ecological harm, and this is required in greater detail in Condition 13.

## **Contamination**

- 85) The area is not specifically listed as potentially contaminated on Council's inventory. However, the site has a history of unlawful and lawful non-residential uses, and a certificate application was submitted to the Council in 2018 suggesting that inert waste mounds existed on the site.
- 86) A Phase 1 Contamination Land Risk Assessment (STM Environmental Consultants Ltd, dated 10 November 2022) was submitted with the application. It involved a desktop consideration and referred to car storage, since removed from the site but includes consideration of past ponds (since infilled) and made ground. Whilst this would not preclude the delivery of housing on the site, as a minimum, site investigation and remediation details and monitoring and recording are required in Condition 3 as is recommended by the Land Risk Assessment. This is also consistent with the draft conditions that were suggested in the 2019 appeal.

## **Construction**

- 87) Noise, dust, and other impacts could have an adverse impact on residents living in the vicinity of the site. Access to the site is also via a residential cul-de-sac and via busy Nine Mile Ride. To protect neighbour amenity and ensure satisfactory road movements on local roads, a Demolition and Construction Method Statement is required in Condition 4. It would need to reference any lighting during the construction period.

## **Community Infrastructure Levy**

- 88) The application is liable for CIL payments because it involves additional floor area in excess of 100m<sup>2</sup> and five new dwellings. It is payable at £365/m<sup>2</sup> index linked.

## **Planning balance**

- 89) The 2019 appeal decision referenced issues of harm to the character of the area and poor site sustainability. The benefits were cited as the removal of the present uses on the site (moderate weight), economic boosts through delivery of additional housing, construction associated benefits (moderate weight), delivery of affordable housing (moderate weight) and environmental management measures (neutral weight). The overall planning balance, without any titled balance, was that *"The totality of the benefits of the scheme as outlined are insufficient to amount to material considerations that would outweigh the harms I have identified and the conflict with the development plan. Accordingly, the appeal must fail."* (para 60). This was based on the fact that *"the Council's housing performance is consistent with the Framework's exhortation to significantly boost the supply of housing."* (para 52).
- 90) The circumstances that have changed since the 2019 appeal decision are that:
- a) The Council is no longer able to demonstrate a five-year supply of housing, let alone significantly boost housing supply as was found to be occurring in the

2019 appeal decision. Thus, the tilted balance in weighing harm versus benefits is engaged;

- b) Whilst there is a High Court challenge and dispute on this matter between the parties, as a result of the recent enforcement appeal decision, the vehicle storage use across much of the southern part of the site has ceased.
- c) The Council is still delivering on affordable housing but not to the same extent as was occurring at the time of the 2019 appeal decision, owing to internal and external factors;
- d) Biodiversity legislation has been strengthened;
- e) The economic benefits associated with the subject appeal are lesser because of the smaller scale of the development;

- 91) Whilst the last published assessment of housing land supply concluded a deliverable supply of 5.10 years, the Inspectors in recent appeal decisions have found the deliverable supply to be less - at between 4.35 and 4.92 years. Taking this and emerging monitoring information into account, the Council has accepted that the demonstrable housing land supply is less than five years. An updated statement confirming as such will be released by the Council imminently.
- 92) Paragraph 11 of the NPPF states that where a local authority is unable to demonstrate a five-year supply of deliverable housing sites, the most important policies relating to the application may be viewed as being out of date. It continues to advise that unless there are specific policies in the NPPF protecting the land subject to the application, that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF (tilted balance). As per paragraph 12 of the NPPF, the Development Plan remains the starting point for decision making.
- 93) In considering the weight to be attached to the various benefits and adverse impacts of a proposed development under the NPPF and the development plan, any planning application must be considered in context. Material to decisions on planning applications involving housing is the underlying reasons for the shortfall in deliverable housing sites.
- 94) The shortfall is not a result of non-delivery of housing, but rather due to the significant over delivery of housing in recent years, thus reducing the bank of land with extant planning permissions. All evidence and assessments show that whether the housing target is defined through the requirement set out in the Core Strategy or the outcome of the standard method set out in National Planning Practice Guidance, delivery has significantly exceeded the target. If over delivery were considered over the whole Core Strategy plan period or since the introduction of the standard method, there would be no shortfall over the coming five years with over delivery significantly exceeding the shortfall.
- 95) In this context, the weight to be attached to the benefits of additional housing under paragraph 11 of the NPPF should be tempered. This reflects the approach set out in both the Willow Tree House (Application ref 203560, Appeal ref APP/X0360/W/21/3275086) and Land at Baird Road (Application ref 202303, Appeal ref APP/X0360/W/21/3276169) appeals, where the Inspector only applied moderate weight to the provision of additional housing, and in these instances continued to consider the adverse impacts and dismissed the appeals.



- 96) There remain economic benefits that should continue to attract moderate weight. The size of the dwellings would attract a sizeable CIL liability and job creation through the construction period would be proportionally significant and recognised as being a benefit at a time when the country is underperforming economically.
- 97) Socially, affordable housing remains policy compliant as an off-site contribution and with a more pressing need for delivery, the importance of the delivery of affordable housing means alongside general housing delivery the proposal is considered to perform a positive social role.
- 98) The Inspector did not reference the lack of sustainability in determining the weight applied to environmental benefits, though it should be assumed. This remains an issue that detracts from the development although it is tempered given the fact that the development is situated alongside existing housing that is equally removed from facilities, services, and public transport, yet no less desirable for occupation. There are some ecological and biodiversity concerns raised by the Ecology Officer in relation to drainage works and protection of reptiles but there is in principle support in relation to the benefits associated with a landscape wildlife area around the edges of the site and cordoned from the residential areas unlike previous proposals, and this can be delivered through a s106. This does constitute a significant enhancement from the most recent and much denser 2019 dismissed appeal. There is also substantially more soft landscaping proposed and less hardstanding across the site and the application subject to biodiversity and wildlife measures (Condition 8).
- 99) Moreover, what should be recognised is that the proposed application would establish a greater degree of certainty and control (via condition) over a much more compatible residential use on the site and remove a largely unrestricted, partly unlawful, and somewhat incompatible non-residential land use that has operated on and off for about 30 years. In its totality, the development is considered to perform a much more positive environmental role.
- 100) Overall, the weight applied to the economic, social, and environmental benefits remains broadly similar in totality as what was concluded in the 2019 appeal decision. However, with the application of the titled balance in this scheme, those adverse impacts identified no longer significantly and demonstrably outweigh the above benefits and therefore the application recommended for conditional approval.
- 101) The scale of the dwellings, their location within the countryside and because of the protected status of trees on the boundary and the importance of the landscape buffers and wildlife areas (as protected in a s106 agreement) necessitate the removal of permitted development rights in Class A (extensions) and Class E (outbuildings) of Part 2 of the GPDO. The other classes can be implemented without undue harm and are not removed.

## **Appendices**

Appendix 1: Conditions and Informatives

Appendix 2: Finchampstead Parish Council comment

Appendix 3: Screening and Appropriate Assessment

Appendix 4: Location plan, site plan and street elevations

Appendix 5: Floor plans and elevations of each plot

Appendix 6: 2019 Appeal decision

## APPENDIX 1

### CONDITIONS and INFORMATIVES

#### APPROVAL, subject to:

- A) **Completion of a Section 106 legal agreement relating to SANG and SAMM mitigation, delivery of an affordable housing commuted sum, delivery, management, and maintenance of roads to adopted status and provision and management of the landscaped wildlife area**
- B) **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 plans numbered 7, 8, 9, 10, 11, 12, 15 and 16 (dated November 2022) and 3A (dated 24 November 2022), all received by the local planning authority on 30 November 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. Site remediation

###### A. Site characterisation

No development, including demolition, shall commence until a site investigation and risk assessment is completed in accordance with a scheme to assess the nature and extent of any contamination on the site (whether or not it originates on the site) been submitted to and approved in writing by the local planning authority.

The investigation and risk assessment must be undertaken by competent persons, must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of land Contamination CLR 11 and include the following:

- a) a survey of the extent, scale, and nature of contamination
- b) an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service

- lines and pipes, adjoining land, groundwaters and surface waters, ecological systems and archaeological sites and ancient monuments
- c) an appraisal of remedial options, and proposal of the preferred option(s)

B. Submission of remediation scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of approved remediation scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 3A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 3B, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3C.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policy. Relevant policies: National Planning Policy Framework paragraphs 118, 170 and 178.*

#### **4. Construction Management Plan and Method Statement**

No development including demolition shall commence until a Construction Management Plan and Method Statement has been submitted to and approved in writing by the local planning authority. The plan should detail items such as:

- a) the parking of vehicles of site operatives and visitors,
- b) loading and unloading of plant and materials,
- c) construction working times and equipment/material delivery times
- d) storage of plant and materials used in constructing the development,
- e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate,
- f) wheel washing facilities,
- g) measures to control the emission of dust and dirt during construction,
- h) noise abatement measures
- i) phasing of construction, lorry routing and potential numbers
- j) lorry movements through Johnson Drive and onto the site
- k) Clearances to tree canopies along the western boundary of the site and any required crown lifting (in consultation with Condition 6 of this permission)
- l) types of piling rig and earth moving machinery to be utilized
- m) any temporary lighting
- n) a scheme for recycling/disposing of waste resulting from demolition and construction works
- o) contact details for the developer
- p) any other measures proposed to mitigate the impact of construction operations

The plan shall be implemented in full and retained until the development has been constructed. Any deviation from this Statement shall be first agreed in writing with the local planning authority.

*Reason: In the interests of highway safety and convenience and neighbour amenities. Relevant policy: Core Strategy policies CP3 and CP6.*

#### **5. Construction Environmental Management Plan**

No development (including demolition, earth moving, ground works and site clearance) shall take place until a Construction Environmental Management Plan (CEMP) to control the environmental effects of the demolition and construction work has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include measures for:

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

- i) the control of noise (including noise from any piling)
- j) the control of dust
- k) the control of surface water run-off
- l) the control of lighting

No development, demolition, earth moving shall take place or material or machinery brought onto the site until protective fencing and warning signs have been erected on site in accordance with the approved CEMP. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved CEMP and shall be retained in that manner thereafter unless otherwise agreed in writing by the local planning authority.

*Reason: To protect residential amenity and biodiversity. Relevant policy: Core Strategy policies CP3 & CP6 and CP7.*

## **6. Protection of trees**

No development, including ground clearance and demolition works, shall commence until an updated Arboricultural Method Statement and Scheme of Works which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site in accordance with BS5837: 2012, details of any proposed crown lift and impacts caused by proposed drainage works has been submitted to and approved in writing by the local planning authority. No development or other operations shall take place except in complete accordance with the details as so-approved (hereinafter referred to as the Approved Scheme).

No operations shall commence on site in connection with development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any other operation involving use of motorised vehicles or construction machinery) until the tree protection works required by the Approved Scheme are in place on site.

No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Scheme.

The fencing or other works which are part of the Approved Scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval in writing of the local planning authority has first been sought and obtained.

*Reason: To secure the protection throughout the time that the development is being carried out of trees shrubs or hedges growing within or adjacent to the site which are of amenity value to the area, and to allow for verification by the local planning authority that the necessary measures are in place before development and other works commence. Relevant policy: Core Strategy policy CP3 and Managing Development Delivery Local Plan policies CC03 and TB21.*

## **7. Landscaping**

No development including site clearance shall commence until a landscape strategy and scheme of hard and soft landscaping (including boundary treatments and the native planting and all the ecological enhancements specified within section 5.1 and 5.2 of the Ecological Appraisal) as prepared by Deepdene, (November 2022)) has been submitted to and approved in writing by the local planning authority.

The landscape strategy shall first introduce the approach to the different spaces around the site including enhancement to the Landscape Buffers and wildlife spaces, and the incidental spaces within the site.

This strategy shall then guide the landscape scheme, including a low key edge treatment between residential spaces and woodland beyond. Details shall include, as appropriate, proposed contours, means of enclosure with hedgehog links, details of refuse or other storage units, lighting, external services etc). Soft landscaping details shall include planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, detailing species, planting sizes and proposed numbers/densities and implementation timetable.

Planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the occupation of the building(s). Any trees or plants which, within a period of 5 years from the date of the planting (or within a period of 5 years of the occupation of the buildings in the case of retained trees and shrubs) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species or otherwise as approved in writing by the local planning authority.

*Reason: To ensure adequate planting in the interests of visual amenity and biodiversity. Relevant policy: Core Strategy policy CP3 and Managing Development Delivery Local Plan policies CC03, TB06, TB21 and TB23.*

## **8. Biodiversity mitigation and enhancements**

No development, including site clearance, shall commence until a details of ecological enhancement proposals including enhancements outlined within Section 5.2 and Appendix E and detailed Appendix F of the Ecological Appraisal as prepared by Deepdene (November 2022) has been submitted to and approved in writing by the local planning authority. The ecological enhancement scheme shall include provision of minimum one bat brick or box and one bird box per dwelling, log piles, wildlife friendly fencing and native tree and hedge planting and a reptile mitigation and enhancement strategy including details of monitoring maintenance, funding and management responsibilities. The development works are to be carried out in full accordance with the ecological enhancement scheme so approved prior to the occupation of any part of the development or in accordance with a timetable approved in writing by the local planning authority.

*Reason: To incorporate biodiversity in and around developments, limit the impact of the scheme on reptiles and to secure a net gain for biodiversity. Relevant policies: Paragraphs 170, 174 and 180 of the NPPF, Policy CP7 of the Core Strategy, Policy*

## **9. Landscape and Ecology Management Plan**

A long-term landscape and ecological management plan (LEMP) including long term design objectives, management responsibilities, timescales and maintenance shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The content of the LEMP shall include schedules for Landscape Wildlife Area and Landscape Wildlife Corridor and any other area other than privately owned domestic gardens, the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Boundary treatments and measures to avoid garden grab and dumping of garden waste.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- h) Details of the body or organization responsible for implementation of the plan.
- i) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the Owner with the management body responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met and how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

*Reason: To ensure that provision is made to allow satisfactory maintenance of the landscaping and biodiversity measures hereby approved. Relevant policy: Core Strategy Policy CP3 and CP7 and Managing Development Delivery Local Plan policies TB21 and TB23.*

## **10. Highway construction details**

No development shall commence until details of the construction of roads and footways, including levels, widths, construction materials, depths of construction and surface water drainage have been submitted to and approved in writing by the local planning authority. The roads and footways shall be constructed in accordance with the approved details to road base level before the development is occupied and the final wearing course will be provided within 3 months of occupation unless other minor variations are agreed in writing after the date of this permission and before implementation with the Local Planning Authority.

*Reason: To ensure that roads and footpaths are constructed to a standard that would be suitable for adoption as publicly maintainable highway, in the interests of providing*



*a functional, accessible, and safe development. Relevant policy: Core Strategy policies CP3 & CP6.*

#### **11. Access construction**

No development shall commence until details of the access from Johnson Drive have been submitted to and approved in writing by the local planning authority, including provision to ensure construction access onto the site can be achieved and done so without impediment to existing trees to be retained. As a minimum, the required minimum access width and surfacing as so approved shall be implemented prior to commencement of the development, including any demolition.

No dwelling hereby permitted shall be occupied until the access as approved has been constructed in accordance with the approved plans, including that it is surfaced with a permeable and bonded material across the entire width of the access for a distance of 10 metres measured from the carriageway edge with Johnson Drive.

*Reason: In the interests of highway safety and convenience and to avoid spillage of loose material onto the highway. Relevant policy: Core Strategy policies CP3 & CP6.*

#### **12. Bin collection**

No development shall be commenced until details of an on-site bin collection area for refuse, recyclable and food materials and details of collection arrangements have been submitted to and approved in writing by the local planning authority. The collection area shall be implemented in accordance with the approved details and permanently retained as so approved and used for no purpose other than the temporary storage of refuse and recyclable materials (on collection days only).

*Reason: To ensure the efficient collection of waste materials whilst avoiding highway obstruction and loss of visual amenity, in the interests of a functional development, the character of the area, highway safety and convenience and the quality of the pedestrian environment. Relevant policy: Core Strategy policies CP1, CP3 and CP6 and Managing Development Delivery Local Plan policy CC04.*

#### **13. Drainage**

No development shall commence until full drainage details for the development have been submitted to and approved in writing by the local planning authority. These shall account for drainage works, including any attenuation tanks, works to the drainage ditch on the western boundary or connection thereto to be undertaken in consultation with a qualified ecologist having regard to conclusions drawn from Condition 8 of this permission. The final drainage details shall include a drainage plan, with pipe details to compliment any drainage calculations, cross sections of drainage infrastructure, and an indication of the existing ditch that discharge of surface runoff is proposed into.

As pumping of foul water is proposed, this needs to be agreed with the utility provider and a maintenance regime for the pump provided. The approved details are to be implemented in full prior to the first occupation of the development and maintained thereafter for the life of the development.

*Reason: This is to prevent increased flood risk from surface water run-off and to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community. Relevant policy: NPPF Section 15, Core Strategy policy CP1 and Managing Development Delivery Local Plan policies CC09 and CC10.*

#### **14. External materials**

No development shall commence until details of the materials to be used in the construction of the external surfaces of the building are submitted to and approved in writing by the local planning authority. Development shall not be carried out other than in accordance with the so-approved details.

*Reason: To ensure that the external appearance of the building is satisfactory. Relevant policy: Core Strategy policies CP1 and CP3.*

#### **15. Lighting**

No development shall be occupied until a lighting design strategy has been submitted to and approved in writing by the local planning authority. Such details shall include location, height, type and direction of light sources and intensity of illumination and through the provision of appropriate contour plans, curfews and technical specifications clearly demonstrate that any areas to be lit will not disturb or negatively impact biodiversity and dark corridors will be maintained.

All lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority. The lighting scheme shall not include any street lighting.

*Reason: To limit the impact of light pollution on the Natural Environment, and bats in particular. Relevant policy: NPPF Paragraphs 170, 174 and 180 and Core Strategy Policy CP7.*

#### **16. Electric vehicle charging**

No development hereby permitted shall be occupied until details for an Electric Vehicle Charging Strategy serving the development has been submitted to and approved in writing by the Local Planning Authority. This strategy should include details relating to on-site infrastructure, installation of charging points and future proofing of the site unless otherwise agreed in writing by the Local Planning Authority.

*Reason: To ensure that secure electric vehicle charging facilities are provided so as to encourage the use of sustainable modes of travel. Relevant policy: NPPF Section 9 and Core Strategy policies CP1, CP3 and CP6 and Managing Development Delivery Local Plan policy CC07 and Appendix 2 and the Council's Parking Standards Study Report (2011).*

## **17. Accessibility**

No development hereby permitted shall be occupied until a scheme indicating the provision is to be made for full disabled accessibility standards to meet M4(3) of the Building Regulations for at least one dwelling has been submitted to and approved in writing by the local planning authority. The Scheme so approved shall be implemented before the development hereby permitted is brought into use and shall thereafter be retained.

*Reason: To ensure the needs of the general population are met. Relevant policy: Core Strategy policy CP2 and Managing Development Delivery Local Plan Policy TB05.*

## **18. Building demolition**

No development shall take place on the site until the existing structure(s) shown to be demolished on the approved plan have been so demolished, with all materials permanently removed from the site.

*Reason: In the interests of the amenity of the area. Relevant policy: Core Strategy policies CP1 and CP3 and CP11 and Managing Development Delivery Local Plan policy TB21.*

## **19. Compliance with Ecology Appraisal**

Works are to be carried out in full accordance with all the mitigation measure given in Section 5 of the submitted Ecological Appraisal as prepared by Deepdene, (November 2022) unless otherwise agreed in writing by the council.

*Reason: To ensure that reptiles, bats, birds, and biodiversity are not adversely affected by the proposals. Relevant policies: Paragraphs 170, 174 and 180 of the NPPF, Policy CP7 of the Core Strategy, Policy TB23 of the Managing Development Delivery Local Plan and Section 41 NERC Act re. UK Biodiversity Action Plan Priority Species (Species of Principal Importance).*

## **20. Parking and turning**

No dwelling hereby permitted shall be occupied until the vehicle parking, cycle parking and turning spaces have been provided in accordance with the approved plans. The parking and turning shall be retained and maintained in accordance with the approved details and remain available for the parking and turning of vehicles respectively at all times.

*Reason: To ensure adequate on-site parking provision in the interests of highway safety, convenience, and amenity. Relevant policy: Core Strategy policies CP3 & CP6 and Managing Development Delivery Local Plan policy CC07.*

## **21. Permeable surfacing**

No dwelling hereby permitted shall be occupied until the hard surfacing hereby permitted is constructed from porous materials or provision made to direct water run-off from the hard surface to a permeable or porous area within the curtilage of the

development, and the hard surfacing shall thereafter be so maintained. It is to include bonded material across the entire width of the access for a distance of 10 metres measured from the carriageway edge, if not already implemented.

*Reason: To prevent increased flood risk from surface water run-off and avoid spillage of loose material onto the highway, in the interests of road safety. Relevant policy: NPPF Section 14, Core Strategy policy CP6 and Managing Development Delivery Local Plan policies CC09 and CC10.*

## **22. Obscure glazing**

The first-floor dressing room window to the eastern side of Plot 1, the first floor ensuite window to the western side of Plot 4 and the first floor ensuite window to the eastern side of Plot 5 hereby permitted shall be fitted with obscured glass and shall be permanently so-retained. The windows shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the finished floor level of the room in which the window is installed and shall be permanently so retained.

*Reason: To safeguard the residential amenities of neighbouring properties. Relevant policy: Core Strategy policy CP3*

## **23. Restriction of permitted development rights - windows**

Notwithstanding the provisions of the Town and Country Planning, (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no additional windows or similar openings shall be constructed in the first-floor level or above in the side elevations of dwellings 2 and 3 hereby permitted except for any which may be shown on the approved drawing(s).

*Reason: To safeguard the residential amenities of neighbouring properties. Relevant policy: Core Strategy policy CP3*

## **24. Restriction of permitted development rights - garages**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), all garage accommodation on the site identified on the approved plans shall be kept available for the parking of vehicles ancillary to the residential use of the site at all times. It shall not be used for any business use nor as habitable space.

*Reason: To ensure that adequate parking space is available on the site, so as to reduce the likelihood of roadside parking, in the interests of highway safety and convenience. Relevant policy: Core Strategy Policy CP6 and Managing Development Delivery Local Plan policy CC07.*

## **25. Restriction of permitted development rights - gates**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that

Order with or without modification), no gates or barriers shall be erected on the shared vehicular access hereby permitted.

*Reason: To assist in the integration of the development into character and community of the area. Relevant policy: Core Strategy policies CP1 & CP3, and Borough Design Guide Supplementary Planning Document.*

## **26. Restriction of permitted development rights – Classes A and E**

Notwithstanding the provisions of Classes A and E of Part 1 of the Second Schedule the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no outbuildings, enlargement, extensions, or alterations permitted shall be carried out without the express permission in writing of the local planning authority.

*Reason: To safeguard the character of the area and neighbouring amenities and to prevent harm to the ecological and landscape qualities of protected trees. Relevant policy: Core Strategy policies CP1 and CP3 and Managing Development Delivery Local Plan policies CC03, TB21 and TB23.*

### **Informatives**

#### **1. Section 106 agreement**

This permission should be read in conjunction with the legal agreement under section 106 of the Town and Country Planning Act dated [INSERT], the obligations in which relate to this development.

#### **2. Community Infrastructure Levy**

The development hereby permitted is liable to pay the Community Infrastructure Levy. The Liability Notice issued by Wokingham Borough Council will state the current chargeable amount. A revised Liability Notice will be issued if this amount changes. Anyone can formally assume liability to pay, but if no one does so then liability will rest with the landowner. There are certain legal requirements that must be complied with. For instance, whoever will pay the levy must submit an Assumption of Liability form and a Commencement Notice to Wokingham Borough Council prior to commencement of development, failure to do this will result in penalty surcharges being added. For more information see - [Community Infrastructure Levy advice - Wokingham Borough Council](#). Please submit all CIL forms and enquiries to [developer.contributions@wokingham.gov.uk](mailto:developer.contributions@wokingham.gov.uk).

#### **3. Pre commencement conditions**

The applicant is reminded that this approval is granted subject to conditions which must be complied with prior to the development starting on site. Commencement of the development without complying with the pre-commencement requirements may be outside the terms of this permission and liable to enforcement action. The information required should be formally submitted to the Council for consideration with the relevant fee. Once the 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.

#### **4. Demolition Notice**

The applicant is reminded that a Demolition Notice may be required to be served on the Council in accordance with current Building Regulations and it is recommended that the Building Control Section be contacted for further advice.

#### **5. Changes to the 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.

#### **6. Great Crested Newts**

This permission does not convey or imply any approval or consent required under the Wildlife and Countryside Act 1981 for protected species. The applicant is advised to contact Natural England with regard to any protected species that may be found on the site.

Should any Great Crested Newts or evidence of Great Crested Newts be found prior to or during the development, all works must stop immediately, and an ecological consultant or the Council's ecologist contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

#### **7. Mud on the road**

Adequate precautions shall be taken during the construction period to prevent the deposit of mud and similar debris on adjacent highways. For further information contact the Highway Authority on tel.: 0118 9746000.

#### **8. 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. This planning application has been the subject of positive and proactive discussions with the applicant in terms of a pre-application process and addressing concerns relating to highway safety.

The decision to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the NPPF is considered to be a positive outcome of these discussions.

## **APPENDIX 3**

### **Finchampstead Parish Council Comments**

PLANNING REF: 223592

PROPERTY ADDRESS: FBC Centre, Gorse Ride, Finchampstead RG40 4ES

SUBMITTED BY: Finchampstead Parish Council

DATE SUBMITTED: 15/12/2022

#### **COMMENTS:**

The Council object to this application for the following reasons:

- Outside of the development area and not an allocated site within the emerging FNDP
- Development in the countryside, contrary to FNDP Policies ADH1 and ADH2
- Unsustainable countryside location.

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