

**Item No 05:-**

**14/05225/OUT (CT.6991/Z)**

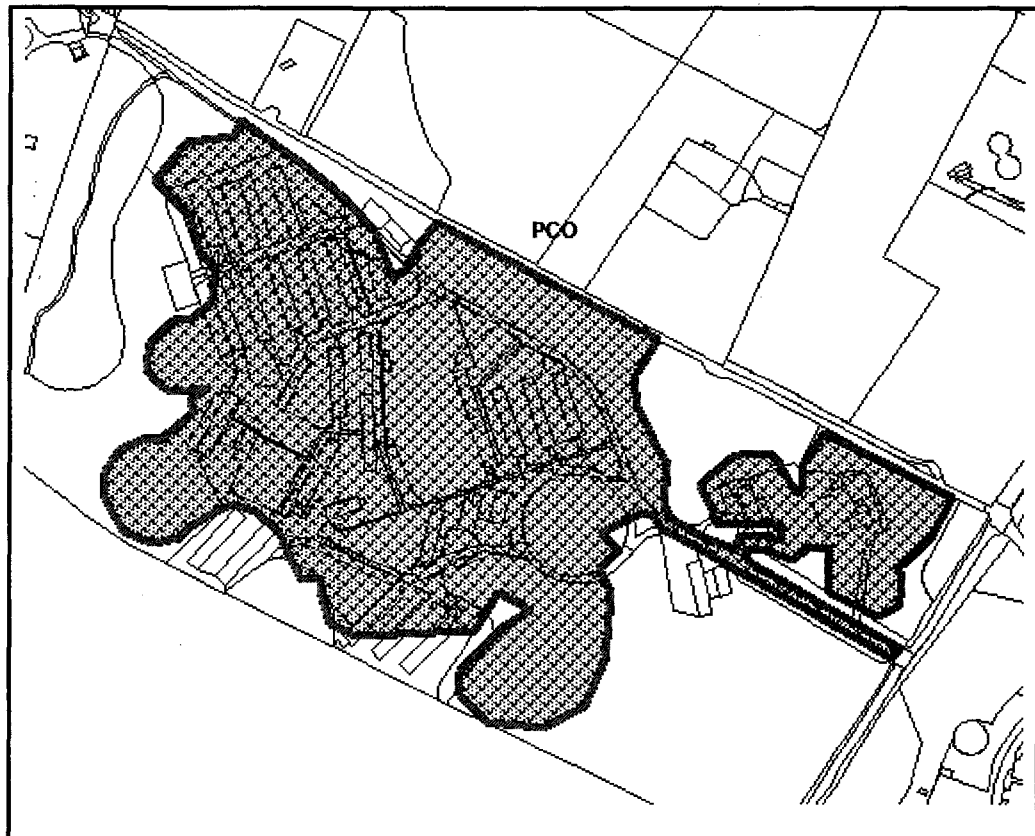
**Ullenwood Court  
Ullenwood  
Gloucestershire  
GL53 9QS**

## Item No 05:-

**Outline planning application for residential re-development consisting of 20 units and associated works, and the provision of equivalent replacement stable facilities and riding arena (access, layout and scale to be determined) at Ullenwood Court Ullenwood**

<b>Outline Application 14/05225/OUT (CT.6991/Z)</b>	
Applicant:	William Morrison (Ullenwood) Ltd
Agent:	SF Planning Limited
Case Officer:	Katherine Brommage
Ward Member(s):	Councillor Nicholas Parsons
Committee Date:	10th June 2015

## Site Plan



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**RECOMMENDATION: PERMIT subject to conditions and:**

- 1) RESOLUTION OF OUTSTANDING HIGHWAY MATTERS TO THE SATISFACTION OF OFFICERS**
- 2) RESOLUTION OF OUTSTANDING ARCHAEOLOGICAL MATTERS TO THE SATISFACTION OF OFFICERS**

**3) NEGOTIATION OF THE OFF-SITE AFFORDABLE HOUSING CONTRIBUTION TO THE SATISFACTION OF OFFICERS AND THE DISTRICT VALUER (UNLESS THE CONTRIBUTION IS LOWER THAN £590,000 IN WHICH CASE THE APPLICATION WILL RETURN TO PLANNING COMMITTEE)**

**4) COMPLETION OF A S106 AGREEMENT TO INCLUDE: 1) AFFORDABLE HOUSING CONTRIBUTION (REFERRED TO ABOVE) 2) EDUCATION (PRIMARY SCHOOL) CONTRIBUTION OF £58,460 3) PRIVATE MANAGEMENT COMPANY AND TRANSFER OF LAND**

**Main Issues:**

- (a) Principle of Development and the weight to be accorded to Local Plan Policy 19
- (b) Five Year Housing Land Supply
- (c) Development of previously developed land
- (d) Sustainability and the emerging Local Plan
- (e) Weight to be afforded to the 'fallback'
- (f) Impact on the Green Belt
- (g) Impact on the Cotswold Area of Outstanding Natural Beauty (AONB)
- (h) Loss of Employment Sites
- (i) Arboricultural Implications
- (j) Conservation, Design and Layout
- (k) Biodiversity
- (l) Archaeology
- (m) Access and Highways
- (n) Flood Risk and Drainage
- (o) Contamination
- (p) Planning Contributions

**Reasons for Referral:**

This application is brought before the Planning Committee in agreement with the previous Ward Member Councillor Hogkinson, given the sensitivity of the proposals having regard to the site's location outside of an adopted development boundary, location within the Green Belt and Cotswold AONB and proposed loss of employment land.

**1. Site Description:**

Ullenwood Court is located off the B4070 (Leckhampton Hill) approximately 500 metres to the north east of Crickley Hill Country Park and 200 metres to the north west of the National Star College. Crickley Hill Country Park is a Site of Special Scientific Interest (SSSI). The Cotswold Way runs along the site's north-east boundary, which is locally named 'Greenway Lane'.

During the Second World War the application site was used as an emergency military hospital and training camp. The majority of the existing buildings on the application site are therefore characteristic of this use. The site is currently predominately in commercial use and includes 32 commercial properties which fall within either a B1, B2 or B8 use class. There are four existing residential properties within the site, three of which are understood to be holiday lets. Access is obtained directly from Leckhampton Hill and will remain as such.

The site contains a number of existing mature trees, located within a well-manicured setting. The grounds levels rise from the south-east to the north-west. The combination of the undulating topography and the extent of existing tree planting means that the site, apart from its open manicured frontage, has a relatively secluded character. The existing buildings on the site are not therefore particularly visible from public vantage points with the exception of existing units located near to the main road, specifically Unit 1, which is visually prominent from Leckhampton Hill.

The site is located within the Cheltenham-Gloucester Green Belt and the Cotswold Area of Outstanding Natural Beauty (AONB) but is classified as previously developed land, which is otherwise known as 'brownfield' land.

**2. Relevant Planning History:**

The application site has a complex history dating back to the Second World War. The Oxford Archaeology Heritage Report, submitted with the application, confirms that the site operated as a station hospital between 1943 and 1944, by the General Field Hospital at RAF Fairford. The military hospital was built for the American services as part of Operation Bolero, to prepare for the

expected D-Day casualties. Plans dating back to the 1960s show the site containing many more structures than what exists today.

In 1991 planning permission was granted for the change of use of 32 of the existing buildings to business (B1) and storage (B8) use (ref: CT.6991/Q). More recently prior approval has been given for the change of use of 8 of the B1(a) (Office) units to 23 one and two bedroom residential units (Ref: 14/00721/OPANOT & 14/03008/OPANOT). If implemented, this would bring the total number of residential units on the site to 27.

The planning history relevant to this application is set out as follows:

14/00721/OPANOT & 14/03008/OPANOT Notification under Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 for change of use of 8 offices (B1) to residential (C3). Prior Approval Granted 07.07.2014

CT.6991/W (04/03132/FUL) Single storey extension to kitchen and dining room at Ullenwood Court. Permitted 24.01.2005.

CT.6991/Q Change of use and retention of use of 32 former MOD hospital buildings to business & storage use (Class B1 and B8). Permitted 12.03.91.

T.3721/P Alterations to existing agricultural workers' dwelling to provide three holiday lets. Permitted 19.03.1986.

T.3721/O Alterations to existing building to provide stables and construction of an exercise and training area in connection with livery and riding school. Permitted 17.04.1984.

T.3721/M Use of existing buildings for wholesale storage for carton glassware. Refused 05.12.1978.

T.3721/L Use of existing buildings for wholesale storage for carton glassware. Refused 15.08.1978.

T.3721/h Change of use of ex-army hut to use as stores, offices and garage in connection with the business of catering equipment supplier. Permitted 30.06.1965.

T.3721/c Outline application for the erection of a farmhouse attached to 55 acre farm. Permitted 17.04.1962.

In addition, Members should note that an area of land to the north of Ullenwood Court, formerly occupied by buildings associated with Ullenwood Camp off Greenway Lane, has been redeveloped. The site is now occupied by a large detached dwelling, permitted as a replacement dwelling (ref: 04/00968/FUL). The size of the property was justified on the basis that the existing bungalow, scout huts, dormitory and existing storage buildings upon the site would all be demolished. This site is also located within the Green Belt.

### **3. Planning Policies:**

LPR05 Pollution and Safety

LPR09 Biodiversity, Geology and Geomorphology

LPR10 Trees, Woodlands and Hedgerows

LPR19 Development outside Development Boundaries

LPR21 Affordable Housing

LPR24 Employment Uses

LPR34 Open Spaces & Play Areas in Residential Development

LPR38 Accessibility to & within New Development

LPR39 Parking Provision

LPR42 Cotswold Design Code

LPR43 Provision for the Community  
LPR45 Landscaping in New Development  
LPR46 Privacy & Gardens in Residential Development  
LPR47 Community Safety & Crime Prevention  
LPR49 Planning Obligations & Conditions  
NPPF National Planning Policy Framework

#### **4. Observations of Consultees:**

Thames Water: No comment (not in area).

Seven Trent Water: No objection, subject to conditions requiring details of surface water and foul drainage.

Highways Agency (now Highway England): No objection.

English Heritage (now Historic England): No objection, subject to a building record condition.

Natural England: No objection.

Environment Agency: No Objection.

Tewkesbury Borough Council: No comments received to date.

Waste Officer: General comments: "The only areas of concern that I can see would be in the vehicles being able to service No's 9 & 13 on the development as it looks as though the turning heads would be too small to make a manoeuvre in the collection vehicle particularly if cars were in situ. In that case the collection vehicle would have to reverse down to these properties instead which may become problematic dependant on the numbers of parked cars."

Cotswold Conservation Board: The Cotswolds Conservation Board object to the amended proposals for the following reasons:

"The site is in the AONB (and Green Belt) and paragraphs 115 and 116 NPPF apply. The introduction of 27 new dwellings will change the character of this site from a relatively low key and well concealed commercial area to essentially a residential development in the countryside. The character of the area will change from new street lighting, new garden areas, bins, cars etc which will change the low key nature of development on this site. The layout plan shows new development extending over a greater part of the site than at present bringing a new level of harm. A question is raised over how development in the countryside, in an AONB and in the Green Belt outside and way from any settlement can be considered to be "sustainable" development. In any case footnote 9 of the NPPF confirms the "presumption" in favour of sustainable development does not apply in this case due to the restrictions based on the Green Belt and AONB location. Future residents of the dwellings will be car reliant to meet all their needs. There is also an issue over the loss of commercial space in a rural area. It is noted that a number of the commercial buildings have achieved permitted development rights to be converted to residential under the 2013 changes to the GPDO. The Council should now consider an Article 4 direction on this site to prevent any further loss of commercial uses to residential and accordingly to refuse this application."

CDC Drainage Engineer: No comment received to date.

Comments made by the Conservation and Design Officer, Biodiversity Officer, Landscape Officer, Tree Officer, Contamination Officer, Housing Enabling Officer, County Archaeologist and Highways Officer are incorporated below.

## 5. View of Town/Parish Council:

Coberley Parish Council have neither objected nor supported the planning application at this stage. A complete copy of the Parish Council's comments is attached as Appendix 1 of this report.

## 6. Other Representations:

### Letters of Objection

62 letters of objections have been received: 8 of which are additional comments to objections already made. Members should note that the majority of objections were submitted prior to the re-advertisement of the amended proposals. Only 2 further objections were received to the amended proposal, along with 8 letters of support.

Approximately 75% of objections made to the original proposals made reference to the loss of the riding school and livery yard. It has however, been brought to Officers attention that the owner of the stables/livery yard is on a short term lease.

A summary of the grounds of objection raised to the original proposals is set out as follows:

- i) Loss of local businesses/employment land;
- ii) Loss of the livery yard which will have a significant impact on the recreational facilities available locally;
- iii) Where would people keep their horses? Many horses may be put down if local livery stables cannot be found;
- iv) The need to relocate businesses may result in the loss of skilled staff;
- v) The cost of relocation will be expensive and time consuming, loss of jobs may result;
- vi) The site is located within an Area of Outstanding Natural Beauty where great weight should be given to conserving landscape and scenic beauty in accordance with the NPPF;
- vii) The site can be viewed from Leckhampton and Crickley Hill and the Cotswold Way runs along it. Extensive development of the site would detract from the rural feel of this route of national importance;
- viii) Under Local Plan Policy 19 of the Local Plan 2001-2011 this development would not be allowed. Until the District Council's new plan is approved then reference should be made back to this plan;
- ix) While there is a presumption in favour of sustainable development the proposals are not sustainable and should not be permitted;
- x) The proposals contravene several policies under the NPPF;
- xi) No provision has been made for public transport, affordable housing, schools, loss of business/employment, loss of the riding school/livery yard;
- xii) The developers fallback position would be preferable to the current proposals, despite the lack of S106 payments, as it would result in smaller, more affordable homes in-keeping with the remaining buildings on site and leave the stables and some industrial units in situ;
- xiii) The site is located within the Cheltenham/Gloucester Green Belt which the developer suggests is an anomaly. The NPPF makes it very clear that designated green belt should be protected. Also, effort should be made to promote access to and use of green belt land for recreational and sporting use;
- xiv) Contrary to comments in the developer's planning statement there is no local public transport. This means that residents will rely on the private car;
- xv) 2-4 cars per property will add to traffic congestion into Cheltenham or onto the notorious Air Balloon Roundabout;
- xvi) 27 houses, of the intended size and value will not help to meet the affordable housing need in communities in and around Ullenwood. The developer's promise of a contribution towards affordable housing elsewhere also does nothing to meet that need;
- xvii) The local schools are already over-subscribed;
- xviii) There will be a loss of biodiversity;

- xix) There will be no benefit to the residents of Ullenwood. The offer of S106 payments is little more than bribery;
- xx) The site's access has limited visibility when turning right towards the Air Balloon and any increase in traffic on the roundabout is not desirable;
- xxi) The existing units are old barracks and have much history of which the development will destroy;
- xxii) If this site must be built on then there is plenty of space for smaller affordable homes and the riding school to coexist;
- xxiii) Leckhampton is constantly at threat of development;
- xxiv) What will happen to the Crippets Long Barrow? Will people want to walk through houses to get to it?
- xxv) The Bath Road is not an easy cycle ride to local amenities. It is very steep and the traffic travels well over the 40 mph limit. It is unlit and narrow and is shut several times each year due to snow and ice;
- xxvi) Financial support from the previous owner, the new owner and/or Cotswold District Council is essential if many of the businesses are to survive the upheaval. A view which represents many of the businesses at Ullenwood;
- xxvii) There is no need for this development.

Only 2 objections were submitted following advertisement of the amended plans. The additional grounds of objection made are set out below for clarity.

- xxviii) Despite the reduction in house numbers and the provision of replacement facilities, it is still believed that the application falls short in demonstrating sustainability due to urbanisation in the AONB, loss of employment, effect on traffic, no affordable housing or provision for schooling;
- xxix) There appears to be no detailed analysis of the existing equestrian facilities. The proposals currently show only 15 replacement stables but there are currently 24;
- xxx) The riding school will need good access on and off site, a riding arena of at least the same size (bigger and covered if possible), adequate parking and space for horses to access the woods;
- xxxi) The application could set a very dangerous precedent. The visual impact, even if the homes are built in a traditional way, will be devastating to the AONB and Green Belt;
- xxxii) The proposals will result in the loss of a number of trees.

### **Letters of Support**

8 letters of support have been received to the application and are summarised as follows:

- i) Fully supportive of the proposed plans based on the recent amendments and the re-development of the riding school/stables which is an important facility for the area;
- ii) The modern echo proposal for this old site is well considered from all aspects of the planning process. It would be a wonderful addition to the quality of housing stock in the Cotswolds;
- iii) The new plans for the riding centre will enhance the facilities and give untold opportunities to children and young people. Ullenwood Court Riding Centre has been very well known, long standing and popular and we are delighted with the new plans;
- iv) The newly proposed plans preserve and enhance a vital opportunity for the public to engage with equestrian sport and leisure activities.

Of the 8 letters of support received it is notable that 4 have been submitted in place of previous objections. While not the statutory consultee in this case Cowley Parish Council have also confirmed their support of the application. The Parish Council considers the proposed development to be preferable to the industrial use of the site, which would have a positive impact on local facilities. However, it is noted that the development consists of large properties. It is therefore felt that some smaller and more affordable homes should be incorporated.



## General Comments

6 general comments have been received and are summarised as follows:

- i) The proposed development in its landscaping and design is sensitive to its impact upon the rural environment in the AONB which is recognised and applauded;
- ii) The reduction in dwellings to 20 with associated further landscaping improvements and the retention/relocation within the site of Ullenwood Riding School makes the revised proposed much more acceptable;
- iii) Very pleased that the proposal now includes provision for retention of Ullenwood Riding School which, given its teaching work with children and young people, is most valuable and not easily replaced;
- iv) Noted that the proposal for the riding school includes 15 boxes for horses, the same as at present;
- v) The proposals remove one very small enclosure and the small field immediately adjacent to the present school. The small field, as well as the path through the woodlands to the north, provides access for horses and riders to the large field beyond at present, from which a bridal route from the relocated school will be required;
- vi) The proposal for funding new premises is to be applauded;
- vii) There is no acknowledgement in the Geo Environmental Desk Study that dwellings in Crippetts Lane, to the north of Ullenwood Court, rely on spring water for their domestic water supplies;
- viii) The large number of young people that use the stables for recreation and learning needs to be considered. Can the stables be built prior to the new build?

Again, while not the statutory consultee in this case, Badgeworth Parish Council have made general comments. The Parish Council's main concerns centre on the significant excavations proposed, the plans to re-use the existing sewerage system and the potential for the local spring water supply to be contaminated. Such matters are dealt with later in this report. Re-assurance has also been sought from the developer with regard to the disposal of the further agricultural land that is understood to be within the same ownership. This is not a matter that is relevant to the determination of this application.

## Petition(s)

Prior to the amendment of the planning application two petitions were received, dated 11th February and 12th February 2015 respectively. Both petitions were submitted by the same petition originator against the proposed development. The petitions were entitled 'Save Ullenwood Court Riding School and Ullenwood Court Business Park'. Together the petitions include 284 signatories.

## 7. Applicant's Supporting Information:

Site Location Plan  
 Site Survey  
 Proposed Site Layout  
 Schematic Plans  
 Existing and Proposed Footprints  
 Proposed Building Levels  
 Site Sections  
 Illustrative House Types  
 Planning Statement  
 Design and Access Statement  
 Landscape and Green Infrastructure Scheme  
 Landscape and Visual Impact Assessment  
 Arboricultural Survey, Impact Assessment and Method Statement  
 Drainage Strategy and SUDS Sections  
 Ecological Appraisal

Reptile Survey  
Bat Survey  
Flood Risk Assessment  
Cultural Heritage Assessment  
Swept Path Analysis  
Trip Generation Comparisons  
Occupancy Plan  
Affordable Housing Advice Note

## **8. Officer's Assessment:**

### **Introduction**

Planning permission is sought for the redevelopment of Ullenwood Court for 20 residential units and the provision of equivalent replacement stable facilities and riding arena. The planning application has been submitted in outline with access, layout and scale to be determined only. Appearance and landscape details are reserved although an indicative Landscape and Green Infrastructure plan has been provided with the planning application.

The proposals necessitate the need to demolish all (37) of the existing buildings/structures on the site including the existing stables that comprise Ullenwood Court Riding School. The amended layout (Drawing No P003 E) shows how the 20 residential units will be accommodated on the site. Drawing No PL008 Rev B and PL011 Rev B provides detail regarding the proposed ridge heights and finished floor levels which indicate the proposed scale of the dwellings.

While the design of the dwellings is not applied for, having regard to the proposed layout and the scale of the dwelling proposed, it is considered that the units would need to be of a contemporary design in order for them to be successfully accommodated on the site. The Revised Design and Access Statement sets out a 'Design Code' that is intended to set a template for a high quality and coherent design approach on the site. Access to the site is to remain as existing. The only amendment to the existing access is the provision of electric access gates as shown on Drawing No P003 E.

### **Pre-Application**

Pre-application advice was sought in July 2014. The advice given was generally favourable subject to the provision of further information and technical reports at the planning application stage. However, this pre-application advice was given prior to the Council's change in five year housing land supply position, up-to-date case law (discussed later in this report) and on the basis that the proposed dwellings would be entirely one storey (with no need for excavation works etc). A copy of the Council's pre-application advice note has been submitted as part of the planning application and be read as Appendix 2 to the Planning Statement prepared by SF Planning (dated Nov 2014).

#### **(a) Principle of Development and the weight to be accorded to Local Plan Policy 19**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan is therefore the starting point. In this case the development plan is the adopted Cotswold District Local Plan 2001 - 2011 (referred to herein as the 'CDLP')

As shown on the Proposals Map to the CDLP the application site is located some distance from an adopted development boundary. The correct policy to apply in terms of the principle of the proposed development is therefore Local Plan Policy 19 (Development Outside Development Boundaries). Local Plan Policy 19 states that outside development boundaries proposals appropriate to a rural area will be permitted unless:

- it would result in new build open market housing other than that which would help to meet the social and economic needs of those living in rural areas;
- cause significant harm to existing patterns of development, including the key characteristics of open spaces in a settlement;
- lead to car-borne commuting;
- adversely affect vitality and viability of settlements; and
- result in development that would compromise the principles of sustainable development.

The proposals would clearly contravene Local Plan Policy 19 since new build open market housing is proposed. It is therefore pertinent to consider whether there are other material considerations that would indicate that planning permission should be granted. Such matters are considered in more detail below.

### **(b) Five Year Housing Land Supply**

Paragraph 47 of the National Planning Policy Framework (NPPF) states that planning authorities should identify a supply of deliverable sites sufficient to provide five years' worth of housing. It also advises that an additional buffer of 5% or 20% should be added to the five year supply 'to ensure choice and competition in the market for land'. In instances where planning authorities cannot demonstrate a five year supply of deliverable housing sites Paragraph 49 states that the "relevant policies for the supply of housing should not be considered up-to-date".

In May 2014 the Council's 5 year housing land supply was updated in line with the Council's usual monitoring process. The 5 Year Land Supply May 2014 report confirmed that the Council was able to demonstrate 5.77 years' worth of supply when assessed against the housing requirements set out in the Secretary of State Proposed Changes to the draft Regional Spatial Strategy for the South West (Draft SoS RSS). This position was tested at the recent Land south of Cirencester Road, Fairford Public Inquiry (PINS Ref: APP/F1610/A/14/2213318). At the time of this appeal the Council did not have an understanding of its Objectively Assessed Need (OAN). The Inspector concluded in her decision that:

"The Council accepts that it does not have an OAN. The figures it has produced for housing requirement do not represent the OAN for the district, and do not take account of employment considerations or market signals, as required by the PPG. Consequently, in the absence of an OAN I conclude that the Council is unable to demonstrate a five-year supply of deliverable housing sites." (Paragraph 27)

Since the Fairford inquiry sat, evidence has been finalised to establish an OAN across the housing market area of Gloucestershire. 'The Objectively Assessed Housing Needs of Stroud, Forest of Dean and Cotswold' report, which was prepared by Neil McDonald with Christine Whitehead in October 2014. This independent study identifies an OAN for the Cotswold District of 7,600 dwellings over the twenty year period 2011-2031 (380 dwellings per annum). It has been resolved by Cabinet to utilise this figure for the purpose of the emerging Local Plan and the Council's 5 year housing land supply calculation.

In January 2015 an updated report was published on this basis. The only difference between this report and that produced in May 2014 is the use of the OAN figure as the housing requirement. This gives rise to a five year housing land supply of 6.5 years, including a 20% buffer. While it is noted that this position has not yet been tested at a planning appeal it is the Council's most up to date and robust position in line with the guidance contained in the NPPF and National Planning Practice Guidance (NPPG) and should therefore be accorded significant weight in the determination of this application.

The fact that the Council can now demonstrate a five year housing land supply means that Local Plan Policy 19 is up-to-date in the context of Paragraph 49 of the NPPF. There is therefore no express requirement in accordance with Paragraph 14 of the NPPF to grant planning permission. However, there may be other material considerations that outweigh the provisions of Local Plan Policy 19 in this regard.

### **(c) Development of previously developed land**

The re-use of previously development land that is not of high environmental value is consistent with the core planning principles set out in the NPPF. Paragraph 17 of the NPPF states that:

"Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision taking. These 12 principles should: .....

encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value"

The application site is undoubtedly 'previously developed' in line with the definition of previously developed land provided in Annex 2 of the NPPF. Its redevelopment would therefore be consistent with the NPPF, subject to its environmental value.

### **(d) Sustainability and the emerging Local Plan**

The NPPF has at its heart a "presumption in favour of sustainable development". It states that "there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles". These are an economic role whereby it supports growth and innovation and contributes to a strong, responsive and competitive economy. The second role is a social one where it supports "strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations". The third role is an environmental one where it contributes to protecting and enhancing the natural, built and historic environment.

Paragraph 8 of the NPPF states that the three "roles should not be undertaken in isolation, because they are mutually dependent". It goes on to state that the "planning system should play an active role in guiding development to sustainable solutions."

To this end, it is a necessary requirement to have full regard to economic, social and environmental considerations when assessing proposals for new development. Of particular relevance to this case is the need to balance the social need to provide a range of new housing within the District (which weighs positively in favour of the proposed development in accordance with Paragraph 47 of the NPPF), against the economic and environmental impacts.

With regard to sustainability it is noted that 'The Local Plan Consultation Paper: Preferred Development Strategy May 2013' did not identify Ullenwood as having sufficient facilities and services to accommodate new residential development in the period up until 2031. In fact, there is no specific mention of the application site in the emerging Cotswold District Local Plan 2011 - 2031. Although this is unsurprising given that the application site is not adjacent, or proximate, to an existing settlement.

Given the site's distance from an existing settlement and therefore, existing facilities and services, it is the view of Officers that the application site does not represent a sustainable location for new housing development. Typically therefore, the Council would not tend to seek to accommodate new housing or significant employment in this, or similar, locations. Nonetheless, it is noted that the application site is somewhat unusual given its location opposite the National Star College, a residential institution, its current use and the applicant's fallback position, as a result of the expansion of permitted development rights by the Government which has led to the prior approval that has been granted by the Council under ref: 14/00721/OPANOT & 14/03008/OPANOT.

It is also accepted that rural areas cannot be expected to achieve the same level of sustainability as urban areas (NPPG Paragraph 29) although it is correct to avoid isolated new homes in the countryside unless there are special circumstances in accordance with Paragraph 55 of the NPPF. Nonetheless, the NPPF should be read as a whole and there is specific support for the

redevelopment of brownfield land as a core planning principle (Paragraph 17 of the NPPF) as well as the application of national Green Belt policy (Paragraph 89 of the NPPF, final bullet point).

It is debatable whether the current use of the site would have been granted planning permission had it come forward now however, it is a matter of fact that the current use exists which in itself gives rise to a baseline level of impact that must be taken into consideration.

In simple terms what is being sought here is the replacement of one unsustainable use with another. Consideration therefore needs to be afforded to the difference between the two uses to establish whether there will be a worsening of the current situation in respect of the three dimensions of sustainability, having regard to the NPPF as a whole. If betterment exists then this would weigh positively in favour of the proposals.

One must also consider the weight to be accorded to the applicant's fallback position in understanding the worst case scenario should planning permission be refused.

#### **(e) Weight to be afforded to the 'fallback'**

Much has been made in the supporting information to the planning application in respect of the applicant's fallback position. This relates primarily to the grant of the prior approval to convert 8 of the existing B1(a) office units to residential use. Under this prior approval the applicant has permission to change the existing office units to 23 one and two bedroom dwellings. This would result in a total of 27 residential units on the site as well as the remaining employment units. This is material to the determination of the application.

The weight to be accorded to this fallback however, is intrinsically linked to its plausibility. Various references to Case Law are made in the Planning Statement (SF Planning Nov 2014, pages 12 - 13). There is a degree of inconsistency in the Case Law on this matter. Essentially, the weight to be accorded to a fallback position is a matter of planning judgement, to be assessed on a case by case basis.

The applicant appears to rely on the fallback position to justify the number of proposed dwellings and, in part, their size. The Planning Statement suggests that the current application will result in an "infinitely superior outcome" to the fallback, particularly if the applicant decided to extend the consented dwellings under permitted development.

The existing office buildings are in good condition and appear to be capable of conversion relatively easily. It is therefore accepted by Officers that should planning permission be refused for the current proposals then the applicant would proceed to implement the prior approval. This is material and so too are the implications for doing so i.e. residents seeking to access local facilities (primary schools etc.). The current planning application therefore presents an opportunity to mitigate these impacts to the benefit of the local community through contribution to both education and affordable housing which can legitimately be sought in accordance with the adopted CDLP.

Members should note that while Officers agree with the weight to be accorded to the implementation of the prior approval the suggestion that weight should also be accorded to the ability to extend these dwellings under permitted development is not agreed.

Permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) relate only to development within the residential curtilages of dwellings. Officers are of the view that the dwellings consented under the prior approval would not benefit from a residential curtilage.

It is clear from the information submitted with the prior notifications that the red line areas went around the buildings only. The former Class J makes no allowance for the inclusion of land around office buildings. It is also noted that the government has made changes to the GPDO 2015 to restrict the ability to extend dwellinghouses forward of the principal elevation.

The ability to extend the consented dwellings is therefore given no weight.

The Planning Statement (Nov 2014) also suggests that weight should be accorded to the Government's proposals to grant permitted development rights to allow changes of use from warehouse and storage uses to residential (in addition to offices). For the avoidance of doubt Members should note that the ability to undertake such conversions has now been introduced by the Government via the GPDO 2015 (Class P). However, this class specifically excludes buildings located within the AONB.

In this particular case therefore, it is only the prior approval (ref: 14/00721/OPANOT & 14/03008/OPANOT) that can be accorded any significant weight as a plausible fallback position.

#### **(f) Impact on the Green Belt**

The application site is located within the Cheltenham-Gloucester Green Belt as shown on the Proposals Map to the CDLP. It is accepted by Officers that the Council has previously explored the removal of this land from the Green Belt, which was inherited as a result of an administrative boundary change. Nonetheless, the Government's advice is clear that "once established Green Belts should only be altered in very special circumstances" (Paragraph 83 of the NPPF).

It is considered unlikely that an administration boundary change would constitute a very special circumstance in this regard. Green Belt is a statutory designation that can only be reviewed in very special circumstances through the preparation of a review of a Local Plan. It is a matter of fact whether land is, or is not, Green Belt and not a matter of planning judgement. Full weight should therefore be accorded the site's location in the Green Belt.

Section 9 of the NPPF is clear in that it attaches great importance to Green Belts. Their fundamental aim being to prevent urban sprawl by keeping land permanently open (see NPPF, Paragraph 79). The five purposes of the Green Belt are:

- To check the unrestricted sprawl of built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- Assist in urban regeneration, by encouraging the recycling or derelict and other urban land. (NPPF, Paragraph 80).

As with previous Green Belt Policy the NPPF confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances' (NPPF, Paragraph 87). When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The NPPF clarifies that 'very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations (NPPF, Paragraph 88). The proposal's impact on the Green Belt is therefore critical in terms of whether or not the proposals are acceptable in principle.

Paragraph 81 states that once Green Belt has been defined, local planning authorities should plan to positively enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access, provide opportunities for outdoor sport and recreation, to retain and enhance landscapes, visual amenity and biodiversity, or to improve damaged and derelict land. The proposals, including the replacement of the existing stables, are not therefore immediately in conflict with paragraph 81.

Paragraph 89 does state that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt but there are a few exceptions, including:

"limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which

would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development." (NPPF, Paragraph 89, NPPF)

It is accepted that there is no qualification of use within this bullet point. This infers that any use, including for housing, could be considered within the Green Belt if on previously developed land.

Attention is drawn to the recent High Court Judgement delivered by Mr Justice Ouseley (Neutral Citation Number: [2015] EWHC 185 (Admin)). In brief, the judgement sought to establish whether the Local Planning Authority had acted unlawfully in its assessment of an application for the redevelopment of 90 dwellings on a 'previously developed site' in the Green Belt. While Justice Ouseley concluded that the Local Planning Authority had acted unlawfully, one of the key points evaluated was the extent to which the site could be considered as being previously developed since only half of the site contained buildings that fell within the definition set out in Annex 2 of the NPPF. What is clear from this judgement is that the extent of previously development land does not necessarily run with the extent of ownership. It may therefore be appropriate to effectively split a site, that falls within one ownership, into two parts (undeveloped and previously developed). This is a critical distinction in terms of the application of Green Belt policy since it would necessitate the application of two very different policy tests.

The implication(s) of this judgement has been recognised by Officers and the applicant and has led, in part, to the amendments made to the proposed layout. The applicant has also sought legal advice on this point (see Appendix 2 attached). The advice from Counsel is as follows:

"Having regard to the density of the existing buildings on the application site and their close proximity to one another as shown on the application plan 'Existing and Proposed Footprints,' and accepting that a degree of flexibility needs to be applied, it may reasonably be judged that the application site is appropriately described as 'previously developed land' for the purposes of applying the exception 'complete redevelopment of previously developed sites (brownfield land)' in NPPF 89.

In short, the Broxbourne case applied to the circumstances of the application site supports the judgement that the site, as existing, is 'previously developed land' as defined in the Glossary in Annex 2 to the NPPF and a candidate site for 'complete redevelopment' in the Green Belt within paragraph 89 of the framework." (paragraphs 10 and 11)

Officers agree with this view. The main issue to be considered therefore is whether the proposals have a greater impact on the openness of the Green Belt and the purpose of including land within it, than the existing development in accordance with Paragraph 89 of the NPPF. With this in mind it is noted that the most visible existing business unit (Unit 1) is to be removed and will not be replaced as part of the proposals. The proposals also amount to a 11,830 sqm net reduction in floorspace (including existing and proposed hardstandings).

Careful consideration has clearly been given to the location, placement and eventual design of the units proposed. The proposed units will be sited at a depth of between 1.2 and 1.8 metres and will have a ridge of not more than 5 metres above the existing ground level; meaning that the proposed dwellings will not exceed the height of the tallest unit on the site. The impact of the development, when considering the location of dwellings and their ridge heights, will not therefore be dissimilar to the current situation. With respect to the resultant spoil, the applicant has confirmed that this will be taken off-site.

While the proposed dwellings, in terms of their bulk and mass, will be greater than the existing buildings, when compared individually, they are fewer in number and will be set into the site. This means that, when combined with a robust design and landscaping approach, the proposed dwellings have the potential to assimilate into the site successfully.

The Revised Landscape and Visual Impact Assessment submitted with the application acknowledges that while, in year 1, the visual impact of the proposal be slight adverse/moderate

adverse, beyond year 1 this will change to a neutral to slight beneficial impact. The Council's former Landscape Officer does not dispute this assessment.

Notwithstanding, it is recognised that residential use is materially different to employment use which is generally more transient in nature and does not give rise to residential type paraphernalia. This, along with future pressure to approve inappropriate boundary treatments such as fences etc. were all raised as concerns at the pre-application stage. In this regard comfort is drawn from the revised Design and Access Statement which explains how incorporating external terraces, courtyard gardens and informal garden areas within each building can assist in restricting inappropriate residential paraphernalia and reduce pressure to erect hard boundary treatments etc. It is therefore concluded that these concerns can be ameliorated through high quality, well thought out design which will be the subject of reserved matters. Having regard to the indicative house types submitted, while there are some concerns, neither appearance nor landscaping have been applied for. It is considered possible to resolve outstanding issues in this regard at reserved matters. A refusal of the planning application cannot therefore be sustained on this basis. However, it is considered necessary to require the submission and approval of a Landscape Management Strategy as per that described in the Design and Access Statement by condition.

While the application site is designated as Green Belt its development is not considered to conflict with the five purposes of Green Belt designation. The application site is not located adjacent to a built-up area and is not specifically relied upon to prevent towns from merging, neither is it important to the preservation of the setting or special character of an historic town. The proposals are also considered to assist with safeguarding the countryside from encroachment since the proposed dwellings will be sited within the part of the site that is previously developed. It is also recognised that there are unexpected and unique circumstances in this case that cannot be easily repeated elsewhere. The proposals will assist the re-use of previously development land, part of which can be described as derelict, to the visual improvement of the Green Belt. A detailed assessment of this is provided in the LVIA and the conclusion drawn in not disputed.

Accordingly, it is concluded that the proposals would not have a greater impact on openness over and above the existing use and would not conflict with the purposes of the inclusion of this land within the Green Belt. The proposals are not therefore considered to be inappropriate development in the Green Belt in accordance with Paragraph 89. Granting planning permission for the proposals would not therefore conflict with the NPPF in this regard. However, to ensure that the Council has the ability to control the impact of the final development it is recommended that a condition restricting some permitted development rights is imposed across the site (i.e. extensions, means of enclosure, containers, walls/fences, hard standings and outbuildings).

#### **(g) Impact on the Cotswold Area of Outstanding Natural Beauty (AONB)**

The site is located with the Cotswold AONB where great weight should be given to conserving landscape and scenic beauty (NPPF, Paragraph 115). Paragraph 116 of the NPPF states that planning permission should be refused for major developments in areas designated as AONB except in exceptional circumstances and where it can be demonstrated that they are in the public interest. Paragraph 116 goes on to state that consideration of major applications in the AONB should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.



A Counsel Opinion has been submitted to the Council, on behalf of the applicant, to justify the position that Paragraph 116 does not apply in this case (see Appendix 2). This advice concludes that:

"Taking into account the reality of the application site being previously developed land with 37 mainly commercial buildings and associated infrastructure and open spaces, and the spatial constraints employed in the design of the proposed development restricting the 20 dwellings to more or less the footprint of the existing developed site (both in terms of area and height of built development), it may reasonably be concluded, having regard to the 'existing context' of this part of the AONB and the 'proposal in question' that, on any objective view, the proposed development would not constitute 'major development' in the Cotswold AONB within NPPF 116." (paragraph 21, Appendix 2)

Officers consider it appropriate to endorse this opinion and agree that Paragraph 116 of the NPPF does not apply in this particular case. However, it remains relevant to give great weight to conserving the landscape and scenic beauty of the AONB in accordance with the Paragraph 115 of the NPPF.

In this regard it is noted that the former Landscape Officer has no objection to the scheme. While the site, in part, is recognised as being in a prominent position, both within the AONB and the Green Belt, the application is accompanied by a Landscape and Visual Impact Assessment that sets out a detailed analysis of the character of the site and provides an assessment of the proposals resultant landscape impact which is considered to be neutral/slight adverse in year one and a neutral/slight benefit beyond year one. This assessment is not disputed by Officers.

It is also important to consider the visual benefits of the scheme. While the current state of the application site is not particularly offensive the removal of existing Unit 1 is considered to be beneficial. Initial concerns regarding the scheme, as a result of visiting the site during the winter, have been appeased through the amended layout.

It is therefore concluded that the character and scenic beauty of the AONB will be maintained, with any slight adverse impact mitigated by the benefit of boosting significantly the supply of a range of homes in the District on 'brownfield' land. While the need to boost significantly the supply of homes may not necessarily be a 'very special circumstance' in accordance with Paragraph 116, given that the Council is currently able to demonstrate a five year housing land supply, it is accepted by Officers that this policy test is not relevant to apply in this case.

#### **(h) Loss of Employment Sites**

Local Plan Policy 24 is the relevant CDLP policy which applies in respect of planning applications that involve either the loss or gain of employment (B1/B2/B8) uses. However, this policy is 'settlement led' in that it only specifically prevents the loss of employment uses within or adjacent to Cirencester and other Principal Settlements.

Ullenwood Court Business Park is not allocated for employment use and neither is it located within or adjacent to Cirencester or any other Principal Settlement. Loss of employment on this site cannot therefore be resisted in development plan terms especially since, in this case it is argued that less weight should be accorded to Local Plan Policy 19 in favour of the NPPF.

To this end, regard must be had to the NPPF which supports prosperous rural economies (NPPF, Section 3). However, what is clear from section 3 is that supporting the rural economy includes more than simply providing places for people to work; it is also about supporting the local economy through provision of community facilities and enabling business enhancement and diversification. The provision of new homes, and in particular affordable housing, is also a public benefit since such developments can give rise to new jobs in construction/future site management and increased local spending. Therefore, while loss of employment land on the application site is regrettable, it will be mitigated to a significant extent by the benefits of the proposals, which now also includes the replacement of the existing Riding School (which will assist in retaining

employment within the site). It must also be acknowledged that there is already approval in place to convert 8 of the existing units to residential - a loss of employment land that the Council is unable to control.

Overall, the loss of employment on the application site is not considered to have such a significant adverse effect on the local rural economy that this alone would warrant refusal of the application. The employment uses on the site are unfortunately not protected and, in this particular case, there is reason to conclude that the redevelopment of the site will bring about other benefits which need to be accorded weight in determining this application, on balance.

#### **(i) Arboricultural Implications**

The application site is subject to a Tree Preservation Order (TPO) (TPO 15/00001). As such the trees are protected and CDLP Policy 10 applies. Policy 10 provides that development that would destroy or adversely affect a tree of woodland protected by a Tree Preservation Order will not be permitted unless this would be of benefit to the character or appearance of the area or is in the interests of good forestry or arboricultural practice. Policy 45 of the Local Plan also applies with regards to existing landscape (trees).

An Arboricultural Survey, Impact Assessment and Method Statement has been submitted with the planning application and has been amended in line with the revised layout. The Tree Officer has confirmed that the majority of the trees around the periphery are being retained, and new tree planting is proposed. Thus, the overall public visual amenity of trees within the site will be maintained and enhanced. The trees proposed for removal are generally of poor quality and form, many being self-sown and in close proximity to the existing buildings. There is therefore no objection to the proposals, subject to conditions to ensure the successful retention of the protected trees, and to avoid potential conflict with future occupiers.

Officers note that shade diagrams have been shown on the two tree protection plans. It illustrates that shade will affect several of the proposed units at different times during the day. The shade will be transient, and as such is not considered sufficiently negative to be a constraint to development. The exception, however, is proposed unit 19. Unit 19 will be affected by shade more than the other units. Due to the nature of the site (treed parkland setting) it is not considered to be unreasonable for a unit to be closely associated with trees. However, a daylight report will be required at the reserved matters stage to demonstrate that the proposed units have been designed in accordance with BS 8206-2:2008 and BRE 209.

#### **(j) Conservation, Design and Layout**

Comments have been sought from Conservation and Design in respect of the heritage value of the site and the acceptability of the layout. With regard to the historic value of the site it is notable that there are no listed buildings or Conservation Areas within or proximate to the application site, apart from the two listed lodge houses at the National Star College but there are no visual connections or setting impacts of concern. There is therefore no risk that the redevelopment of the site could harm the setting of any designated heritage assets in the context of Section 12 of the NPPF or the relevant sections of the Planning (Listed Buildings and Conservation Areas) Act 1990.

However, Section 12 of the National Planning Policy Framework does ask Local Planning Authorities to take account of the desirability of sustaining or enhancing the significance of heritage assets. Paragraph 135 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account and that a balanced judgement is required having regard to the scale of any harm or loss and the significance of heritage assets.

The existing buildings on site are noted to be typical of quick, cheap wartime construction and are structures that served their purpose with only a limited anticipated lifetime. The less altered units

are noted to be of a concrete frame construction, with the walls built up in hollow ceramic blocks with Crittal style windows. The existing buildings lack conventional architectural merit but the construction techniques and character of the buildings are of significance to their wartime context and should be classed as non-designated heritage assets, albeit more for their significance in terms of the nation's wartime history than their physical attributes.

The demolition of the existing structures is therefore regrettable in terms of the historic interest and significance of the site. However, it is recognised that the buildings that fall outside of the prior approval would not be easy to convert and very few of the buildings survive relatively unaltered. The Conservation and Design Officer has therefore concluded that the surviving heritage significance of the buildings and the complex, as a whole, is not considered to be so significant that their retention, as non-designated heritage assets, could be insisted upon. This view is supported by the County Archaeologist and English Heritage.

Nevertheless the buildings are considered to have significance and form part of the tangible physical remains of wartime infrastructure. A full recording of the wartime structures, prior to their demolition, is therefore recommended which can be imposed by condition (as suggested below) in accordance with Paragraph 141 of the NPPF.

With regard to the design of the proposed layout, the Conservation and Design Officer considers the amendments made to be an improvement. Policy 42 of the Local Plan requires that development should be environmentally sustainable and designed in a manner that respects the character, appearance and local distinctiveness of the Cotswold District with regard to style, setting, harmony, street scene, proportion, simplicity, materials and craftsmanship.

Section 7 of the NPPF requires good design. Paragraph 58 states that decisions should ensure that developments: function well in the long term and add to the overall quality of an area; establish a strong sense of place, creating attractive and comfortable places; and respond to local character and history, reflecting the identity of the surroundings and materials, whilst not stifling innovation. Paragraph 60 states that local distinctiveness should be promoted or reinforced and Paragraph 61 that connections between people and places, with the integration of new development into the natural, built and historic environment.

Having regard to these policies it is confirmed that there is no objection to a contemporary design approach on this site. The Conservation and Design Officer has noted some concern over the sunken drives and potentially overly high-engineered appearance and also some wariness over the treatment of boundaries and the definition of garden curtilages but such matters do not fall to be determined now and can adequately be dealt with at reserved matters and controlled thereafter. It is therefore concluded that the proposed development has the potential to meet the requirements of the NPPF and the provisions of Policy 42 in respect of its design.

#### **(k) Biodiversity**

The Council's Biodiversity Officer and Natural England have been consulted on the planning application. Natural England have confirmed that they have no objection to the planning application despite the location of the site within a SSSI Risk Impact Zone and AONB.

In respect of protected species Natural England refers the Council to its Standing Advice. The Biodiversity Officer has raised no objections to the planning application. However, it is recognised that the proposals have the potential to affect European protected species including, specifically, Great Crested Newts (GCN) and Bats (Common Pipistrelles). Therefore, in light of the ODPM Circular 06/2005 (para 116) and the Habitats Regulations 2010, the 3 'derogation' tests have been considered in reaching a recommendation. In respect of these tests it is noted that:

1. The development will provide housing and, to an extent, local employment and is therefore in the public interest.

2. There is no satisfactory alternative since the land is previously development land currently used for business and the redevelopment proposals include biodiversity gains and that the favourable conservation status of the species must be maintained.

3. The ponds identified as having a low potential for GCN will be retained and the bat roosts identified as being used for individual Common Pipistrelles bats will be replaced with features better suited to use by a variety of bat species. Meaning that, subject to the provision of a mitigation strategy at reserved matters, the proposed development will maintain the favourable conservation status of the great crested newts and bats.

Accordingly, the proposals are considered to accord with the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 as amended, in line with the National Planning Policy Framework (in particular section 11), Cotswold District Local Plan Policy 9 and the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

### **(l) Archaeology**

English Heritage has confirmed that the application site lies close to two scheduled monuments: Crippets Long Barrow (680m north east of Dryhill Farm -1017040) and two bowl barrows, known as Crippet's Wood round barrows (560m and 590m north east of Dryhill Farm - 1017041).

English Heritage has advised that the three barrows all lie on the west facing slope of the Cotswold Plateau looking over the valley below towards the River Severn. Their significance lies mainly in the evidential value of the buried archaeology surviving within the structures and filled in ditches and this will not be affected by the development. Another factor of their significance lies in their location on the edge of the scarp slope seemingly looking into the valley. Following assessment of the application, including the proposed landscape strategy, English Heritage has confirmed that, in their view, the new buildings will have no impact on the significance of the barrows.

The County Archaeologist has made initial comments on the application and has recommended the need for archaeological evaluations to be undertaken at the application site prior to determination. At the time of writing, the applicant was in the process of carrying out these works. Recent discussion with the agent had indicated that no archaeological findings had been made. A final report is to be made available in due course and Members will be updated accordingly.

### **(m) Access and Highways**

The Highway Authority has been consulted on the application. The Highway Authority's initial response dated 19th February 2015 noted that it is a material consideration that employment uses exist on site and that permission has been granted under Prior Approval for some of the existing offices to be converted to residential use. However, further information was requested, including a Swept Path Analysis and Designer's Response, to demonstrate that a safe and secure layout has been achieved and levels of parking justified.

Additional information was provided on 3rd March 2015, with further outstanding information submitted on 22nd May 2015. The Highway Authority's most recent comments confirm that there remains concerns that the proposal fails to provide safe and suitable access for all and minimise conflicts between vehicles and other highway users as such is contrary to paragraphs 32 and 35 of the NPPF and Policy 38 of Cotswold District Local Plan. It is understood however, that the outstanding issues are easily resolvable. A copy of the Highway Officer's most recent comments is appended to this report as Appendix 3.

The Council's Waster Officer has been consulted on the application and raised a concern regarding the ability to service part of the development although the access road appeared to be adequate. The Highway's Officer has outstanding concerns regarding the Swept Path Analysis which will hopefully be resolved prior to planning committee.

The recommendation set out below is made on the basis that further information will be provided prior to committee to make the scheme acceptable. Should this not be the case then Members will be updated accordingly.

#### **(n) Flood Risk and Drainage**

The site is not identified as being at risk of flooding having regard to the Environment Agency's indicative Flood Map. However, since the site is over 1 hectare in size, a site-specific Flood Risk Assessment has been submitted with the planning application.

The Environment Agency and the Council's Drainage Engineers have been consulted on the planning application. The Environment Agency has responded to confirm that there are no objections to the proposed development provided that conditions are imposed requiring the submission of foul and surface water drainage details. To date there has been no response from the Council's Drainage Engineer. In absence of a response, and on the basis of the Environment Agency's lack of objection, it is therefore presumed that the application is acceptable in this regard, subject to the conditions that have been suggested by the Environment Agency.

#### **(o) Contamination**

It is noted that a number of third party comments have been made in relation to concerns about the potential for contamination of the local spring water supply due to the location of the application site over the Birdlip Limestone Principal Aquifer and the extent of excavation proposed, which could mobilise contamination. This matter has been discussed extensively with the Environment Agency and the Council's Environmental Health Department. On the basis of the further information, provided by the applicant, both parties have confirmed that they have no objections to the proposed development subject to the imposition of conditions requiring a remediation strategy and verification report. The Contamination Officer has also specifically recommended a condition in respect of unexpected contamination to cover as many eventualities as possible in accordance with Local Plan Policy 5 and the provisions of Section 11 of the NPPF.

#### **(p) Planning Contributions**

##### **Affordable Housing**

Local Plan Policy 21 states that the Council will seek a proportion of affordable housing on any significant sites in Cirencester, Tetbury, Moreton-in-Marsh, Bourton-on-the-Water and any site elsewhere. Where affordable housing is provided then this shall be integrated, in terms of design and layout, in a 'tenure blind' form. In line with Local Plan Policy 21 and the Council's Affordable Housing SPD (February 2007), the Council will seek 50% of the homes to be provided on site to be affordable.

On the 18th March 2015 the Council received, from the applicant, an offer to provide a £590,000 off-site affordable housing contribution. This contribution has been calculated in accordance with the newly published guidance contained in the National Planning Practice Guidance (NPPG) and takes into account 'Vacant Building Credits'.

Vacant Building Credit is a national policy incentive that has been designed to encourage brownfield development on sites containing vacant buildings. Essentially this means that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings, when an affordable housing contribution is sought. Affordable housing contributions should then only be required on any increase in floorspace.

As with all recent national policy, the NPPG prescribes no specific method for the calculation of vacant building credit. In simple formulaic terms, the approach that appears to be followed by the applicant is set out as follows:

Proposed residential floor space - (vacant floor space + extant/consented residential floor space)  
= Net additional residential floorspace (of which 50% should be affordable)

The Housing Enabling Officer has verbally confirmed her acceptance of an off-site contribution in principle. However, Members should note that the method behind the calculation and the total monetary figure offered has not yet been agreed by Officers.

In absence of any other guidance or examples the applicant's approach would appear to be reasonable but Officers have queried the potential for double counting (by netting off both vacant buildings and those consented under the prior approval) and the validity of giving credit for the dwellings consented under the prior approval. The offer therefore requires further consideration before it can be included in a S106. The District Valuer will also need to be consulted. While Officers are not in a position to confirm the final figure Members can assume that the contribution will be no less than £590,000.

The provision of affordable housing is one of the Council's top corporate priorities. Its provision is therefore a considerable public benefit given the significant affordable housing shortage in the District and weighs significantly in favour of the proposals. Conversely, a lack of affordable housing provision has the ability to affect the planning balance. If the final offer, following negotiation, is less than £590,000, the proposals will be taken back to planning committee for reconsideration.

#### **Up to £200,000 Relocation Fund**

Any financial contribution would need to accord with paragraph 204 of the NPPF and statutory tests sets out under Regulation 122 of the CIL Regulations 2010.

As concluded above, the employment uses on the site are not specifically protected and, in this particular case, there is reason to conclude that the redevelopment of the site will bring about other benefits in accordance with Local Plan Policy 24. It is not therefore considered appropriate to require mitigation for loss of employment in this case. Even if it were, there is insufficient evidence to demonstrate that this fund is appropriate in scale and kind to mitigate the alleged impact. Relocation costs, and therefore the impact of relocation, will vary across businesses. A single lump sum payment to every business is therefore unlikely to meet the statutory tests set out under Regulation 122 of the CIL Regulations. With this in mind there is a risk that the contribution, if accepted, could be construed as 'buying' a planning permission, which is unlawful.

If the applicant were concerned about loss of employment then appropriate provision for replacement employment units should have been accommodated on site or made available elsewhere. In which case, the Council would need to be in receipt of a planning application that could be linked, via legal agreement, to the current application for any weight to be accorded to such provision. No such application exists. For the reasons discussed above Officers do not therefore consider the contribution offered to be necessary or reasonable in the context of the CIL Regulations 2010. Had Officers felt that the loss of employment required mitigation then the application would need to be recommended for refusal on the basis that no alternative provision was being provided.

Members should note that should the applicant wish to pay money to existing businesses as an incentive to vacate the site, or buy tenants out of existing leases, then that is something that can be done outside of the planning process and should not involve the Council.

Nonetheless, the agent has confirmed that the applicant wishes to leave this offer open should Members consider that such a fund is necessary to make the application acceptable in planning terms.

## **Education**

Gloucestershire County Education has confirmed that the nearest primary school to the site is Shurdington C of E Primary which is 1.5 miles away. Shurdington C of E Primary is currently full and forecasts show that the situation will continue over the next 4 years. A financial contribution to off-set this impact is therefore requested.

It is estimated that 5 primary pupils will arise from a proposed development of 20 residential units (all of which will be 2 bedrooms or more). A contribution of £58,460 (5 x £11,692) is therefore required in order to extend, remodel, upgrade to improve the capacity and suitability of Shurdington School in order to meet this increased demand. The applicant's agent has confirmed that this is acceptable.

The nearest secondary school is Millbrook Academy at Brockworth which is determined to have existing capacity to accommodate the additional 3 secondary school pupils likely to arise from the proposed development. Therefore, no secondary school contribution is sought.

## **Library Provision**

The proposed development is now less than 25 dwellings. Therefore, no library contribution is sought.

## **Public Open Space**

Adequate public and recreation space has been incorporated within the layout. Given the amount of public open space being provided it is not considered appropriate to request that play equipment be provided. This is obviously not required under the fallback position and it is the view of Officers, in this particular case, having regard to the importance of maintaining the scenic beauty of the AONB and openness of the Green Belt, not to require such facilities now. On balance therefore, the proposals are considered to accord with Local Plan Policy 34 of the CDLP.

Members should note that a Landscape and Ecological Management Plan has been requested by both the Landscape Officer and Biodiversity Officer. This is to be conditioned. However, the Council do not adopt areas of public open space. Accordingly, provision will need to be made in the S106 for the setting up of a private management company and the transfer of land to enable the site's management in accordance with the agreed Landscape and Ecological Management Plan. It is expected that the site will be managed in perpetuity.

## **9. Conclusion**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The above report sets out the material conditions relevant to this application. On balance, and having regard to these material considerations, it is recommended by Officers that Local Plan Policy 19 should be given less weight in the specific circumstances of this case in favour of granting planning permission for the proposed development in accordance with the NPPF. This conclusion is drawn in the interests of boosting significantly the supply of homes in accordance with paragraph 47 of the NPPF, directing new build open market housing to previously developed sites in accordance with the core principles of the NPPF and securing benefits over and above the applicant's fallback position, including the provision of affordable housing, which weighs significantly in favour of the proposals. While the application site is located within the AONB it is clear that very special circumstances do not need to exist in accordance with Paragraph 116 of the NPPF. The information submitted with the application demonstrates that the proposals can be built without any significant harm to the character or scenic beauty of the AONB. The long term impact is considered to be neutral/slight beneficial.

The above report recognises that the loss of employment on the site. However, Local Plan Policy 24 does not preclude the redevelopment of the site for residential purposes. The site is not

allocated for employment and is not located adjacent a Principal Settlement. Its redevelopment is also permissible under paragraph 89 of the NPPF, subject to the proposals impact on openness which in this case is considered to be neutral.

Given that the NPPF should be read as a whole there does remain a concern about the overall sustainability of the site given its relative isolated location but it is accepted that the existing use of the site and prior approval are both material in this regard. Residential use is a lower trip generator than what currently exists on the site. The number of car movements to and from the site (albeit only one measure of sustainability) will be significantly less than the existing use. While residents of the site will be reliant on the private car to access services and facilities this is not unusual in rural areas and this would certainly be the case in the event that the fallback position is implemented. A refusal on sustainability alone is not therefore considered to be a reasonable ground for refusal in the particular circumstances of this case. It is also accepted that the Council has already granted residential development both to the north of the site and at the National Star College.

Overall the proposals are considered to be acceptable and, subject to outstanding matters being resolved, would accord with CDLP Policies 05, 09, 10, 21, 34, 38, 39, 42, 45, 46, 47, 49 and the provisions of the NPPF, specifically paragraphs 14, 17, 47, 49, 58, 60, 61, 89, 115, 116, 141 and 204. While finely balanced, there are clearly material considerations that exist which indicate that planning permission should be granted despite the provisions of Local Plan Policy 19.

#### **10. Proposed conditions:**

The development shall be started either by five years from the date of this decision notice or before the end of 2 years from the date that the last of the reserved matters is approved, whichever is the later.

**Reason:** To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

Application for the approval of the reserved matters (landscaping and appearance) shall be made to the Local Planning Authority by three years from the date of this decision notice.

**Reason:** To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

The development hereby permitted shall be carried out in accordance with the following approved plans: PL001 Rev A, P003 Rev E, PL004 Rev B, PL005 Rev A, PL008 Rev B, PL011 Rev B, 33.100.02/1, 33.100.02/2 and Swept Path Analysis [TBC].

**Reason:** For purposes of clarity and for the avoidance of doubt, in accordance with the guidance provided by the National Planning Practice Guidance.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no alterations to the residential dwelling hereby approved shall be made including the erection, construction or siting of extensions, means of enclosure, containers, walls/fences, hard standings or outbuildings within its curtilage, other than that permitted by this Decision Notice or subsequent Reserved Matters approval(s).

**Reason:** To ensure that the character of the building and the appearance of the site is conserved in accordance with Cotswold District Local Plan Policy 42 and the provisions of the National Planning Policy Framework given the site's location in the Cotswold AONB and Cheltenham-Gloucester Green Belt.



No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an option appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The detailed remediation scheme should bring the site to a condition suitable for the intended use by removing unacceptable risks to human health buildings and the natural environment and be submitted to the local planning authority. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

**Reason:** To protect groundwater and surface water quality as required by the National Planning Policy Framework at paragraph 109 and 121 and to ensure any contamination of the site is identified and appropriately remediated in accordance with Cotswold District Local Plan Policy 5 and Section 11 of the National Planning Policy Framework. It is important that the above is submitted prior to the commencement of development as any groundworks could cause contamination or a risk to human health or the environment.

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan.

The long-term monitoring and maintenance plan shall be implemented as approved.

**Reason:** To protect groundwater and surface water quality as required by the National Planning Policy Framework at paragraph 109 and 121 and to ensure any contamination of the site is identified and appropriately remediated in accordance with Cotswold District Local Plan Policy 5 and Section 11 of the National Planning Policy Framework.

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 within 2 days to the Local Planning Authority and development must be halted on the part of the site affected by the unexpected contamination immediately.

An assessment must be undertaken in accordance with the requirements of Condition 5, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of Condition 5. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme written confirmation that all works were completed must be submitted to and approved in writing by the Local Planning Authority in accordance with Condition 6.

**Reason:** To protect groundwater and surface water quality as required by the National Planning Policy Framework at paragraph 109 and 121 and to ensure any contamination of the site is identified and appropriately remediated in accordance with Cotswold District Local Plan Policy 5 and Section 11 of the National Planning Policy Framework.

The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul water has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.

**Reason:** To ensure the development is provided with a satisfactory means of drainage and thereby preventing the risk of flooding and pollution in accordance with Cotswold District Local Plan Policy 5 and the provisions of the National Planning Policy Framework. This site is located over the Birdlip Limestone (Principal Aquifer) and groundwater feeds the springs at the source of the Ullenwood Stream located to the South East of the site. Whilst it is appreciated that sewage is currently treated on site by a private system that discharges to a reed bed the Local Planning Authority need to ensure that the current system has capacity to deal with this proposed residential development. The Local Planning Authority also need to know what management scheme will be in place to deal with ongoing maintenance of a reed bed system. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 with an allowance for climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. Prior to occupation the scheme shall be implemented in accordance with the approved details. The scheme shall also include details of how the scheme shall be maintained and managed after completion.

**Reason:** To prevent the increased risk of flooding in accordance with the provisions of the National Planning Policy Framework. It is important that these details are established prior to the commencement of development so that it can be shown that such measures can be satisfactorily accommodated within the approved scheme thereby reducing the risk of flooding in the locality. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage in the locality.

No works shall take place within the application site (including demolition) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording of the WWII standing structures, in accordance with a written scheme of investigation (including appropriate archive deposition) submitted to and approved in writing by the Local Planning Authority.

**Reason:** To maintain adequate records of these heritage assets, in accordance with Section 12 of the National Planning Policy Framework. It is important that the building record is undertaken prior to commencement of the development since such items cannot be recorded following their demolition.

Prior to commencement, including demolition, a detailed Arboricultural Method Statement and Tree Protection Details must be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To safeguard the retained/protected tree(s) in accordance with Cotswold District Local Plan Policies 10 and 45. It is important that these details are agreed prior to the commencement of development as works undertaken during the course of construction could have an adverse impact on the well being of existing trees, some of which are subject to a TPO.

There must be no incursion into the Root Protection Areas (as shown on the Tree Protection Plans 33.100.02/1 and 33.100.02/2) or canopies of protected trees, unless specifically agreed in writing with the Local Planning Authority.

**Reason:** To safeguard the retained/protected tree(s) in accordance with Cotswold District Local Plan Policies 10 and 45.

A Daylight Study shall be submitted at Reserved Matters to demonstrate that the design and layout of buildings allow for light levels that accord with BS 8206-2:2008 and BRE 209.

**Reason:** To safeguard the retained/protected tree(s) in accordance with Cotswold District Local Plan Policies 10 and 45 and to ensure adequate residential amenity in accordance with Local Plan Policy 46.

Prior to commencement, including demolition, a plan showing the route of all services must be submitted to and approved in writing by the Local Planning Authority. All services must be positioned outside of the root protection areas (as shown on the Tree Protection Plans 33.100.02/1 and 33.100.02/2) of protected trees.

**Reason:** To safeguard the retained/protected tree(s) in accordance with Cotswold District Local Plan Policies 10 and 45. It is important that these details are agreed prior to the commencement of development as works undertaken during the course of construction could have an adverse impact on the well being of existing trees, some of which are subject to a TPO.

The development shall not start before a comprehensive landscape scheme has been approved in writing by the Local Planning Authority. The scheme must show the location, size and condition of all existing trees and hedgerows on and adjoining the land and identify those to be retained, together with measures for their protection during construction work. It must show details of all planting areas, tree and plant species, numbers and planting sizes as well as the timing of new landscape planting. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.

**Reason:** To ensure the development is completed in a manner that is sympathetic to the site and its surroundings in accordance with Cotswold District Local Plan Policy 45. It is important to identify trees and other landscape features that are to be retained and provide adequate protection prior to the commencement of development and, in the particular circumstances of this case, to enable the planting to begin to become established at the earliest stage practical and thereby achieving appropriate mitigation and the objectives of Cotswold District Local Plan Policy 45 and National Planning Policy Framework.

Notwithstanding Condition 15, the entire landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner.

**Reason:** For the avoidance of doubt and to ensure that the landscaping is carried out and to enable the planting to begin to become established at the earliest stage practical and thereby achieving the objective of Cotswold District Local Plan Policy 45.

Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within 5 years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.

**Reason:** To ensure that the planting becomes established and thereby achieves the objective of Cotswold District Local Plan Policy 45.

No development, or site works, shall take place until a 10 year Landscape and Ecological Management Plan for the site has been submitted to and approved in writing by the Local Planning Authority. The plan must be based on the Ecological Appraisal and the landscape strategy illustrated on drawing no 14.74.102. The plan shall include:

- i) Long term landscape and ecological objectives
- ii) Appropriate management prescriptions
- iii) Maintenance schedules, including annual work programmes for the first five years.
- iv) Habitat features, for example bird nesting and bat roost provision on built structures
- v) Monitoring schedule, including annual reporting to the Local Planning Authority.

**Reason:** In the interests of the character and appearance of the site and surrounding area in accordance with Cotswold District Local Plan Policy 45 and to ensure that the biodiversity of the site is protected and enhanced in accordance with the Wildlife and Countryside Act 1981. It is important that these details are agreed prior to the commencement of development in order to ensure proper management of the landscape and biodiversity at the site both during and following the construction of the approved scheme.

No development, or site works, shall take place until a Protected Species Mitigation Strategy for bats, reptiles and amphibians (based on the recommendations in the Survey for Bats, Reptile Survey and the Ecological Appraisal). The Protected Species Mitigation Strategy thereby approved shall be implemented in full prior to occupation or the buildings being brought into use and/or if outlined in the Strategy, following commencement of use. Works undertaken shall be retained in accordance with the details of the agreed Strategy.

**Reason:** To ensure that birds, bats, reptiles, amphibians and their habitats are protected and enhanced in accordance with the Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981 as amended, the National Planning Policy Framework (in particular section 11) and Cotswold District Local Plan Policy 9 and to enable the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

It is important that these details are agreed prior to the commencement of development in order to ensure the proper management and protection of protected species at the site both during and following the construction of the approved scheme.

The replacement stable facilities shall be provided prior to the demolition of the existing stable buildings unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** The existing riding school and stable facilities is an important local facility and its timely replacement is consistent with ensuring a prosperous rural economy and the provision of opportunities for outdoor sport and recreation in the Green Belt in accordance with the provisions of the National Planning Policy Framework.

# Coberley Parish Council

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## **SUBMISSION TO CDC REF. OUTLINE PLANNING APPLICATION 14/05225/OUT FOR RESIDENTIAL RE-DEVELOPMENT CONSISTING OF 27 UNITS AND ASSOCIATED WORKS AT ULLENWOOD COURT**

Coberley Parish Council has carefully considered this application and it has been discussed at two meetings, both attended by members of the Parish and current tenants on the site. At the first of these meetings, a presentation of the proposals was made by Mr Simon Hoare of Community Connect and planning consultant Mr Simon Firkins. It has been difficult to arrive at a clear position with regard to the proposals. Ideally, we would like to see status quo maintained, with the Business Park and Riding Centre continuing as they have done for a great many years. However, we recognise that there is little likelihood of that happening; we must consider the merits of the two most likely outcomes, namely the "fall back position" or approval for the proposed development (preferably amended to reflect our points below).

Our prime concerns are:

1. To ensure that re-development of this site is of the traditional architectural style of the Cotswold District, including stone cladding and pitched roofs, that it does not harm the AONB or Green Belt and keeps visual impact to a minimum. To ensure that no increased traffic volume is introduced onto the 3/377 Leckhampton Hill Road (formerly the B4070)
2. To ensure protection and support for the future of the businesses and personnel employed on or via the site

**It is clear from the outline application before us that it is intended that the design and style will be contemporary, therefore we oppose this application; however we would expect to support the application if amended to specify the use of traditional architectural design and materials, and subject to satisfaction regarding our questions below:**

### **Commentary**

The "Fall Back" position is not unattractive to us; it could result in a phased – perhaps over a long period – switch from business to residential use, enabling a number of the existing tenants to remain in the medium term and perhaps ensuring the survival of the riding stables; and in all likelihood of the emergence over time of a more diverse mix than that proposed, both in style and in the provision of mixed housing need. However the possibility of further development in the future of the remaining buildings – whether

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or not the applicant is correct in asserting that there is a high probability of the extension of PD rights which might bring these buildings into residential use – is material in that the impact on the local community and its infrastructure of perhaps 60 or 70 dwellings would be very much greater than that of the 27 dwellings currently proposed. The Parish Council is also mindful of the fact that it and the district authority may have limited powers to influence current future development of the site under the fall-back position.

In the case that the Fall Back option is pursued, we ask CDC to confirm whether the quoted Class A, Part 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 would indeed permit the potential enlargement of the 8 units as shown in Plan 2 on page 14 of the SF Planning Statement by 40% (paragraph 1.15).

We also ask whether CDC concurs with the statement in paragraph 4.14 of the Planning Statement in terms of the lack of any control over appearance and visual impact:

*“Implementation of the prior approval and the subsequent exercise of permitted development rights will result in an inferior and far less suitable redevelopment of the site compared to that proposed in the outline application. In the case of the former the council will neither have control over the layout, design, external appearance, and materials of the approved dwellings, nor over their enlargement and extension. Furthermore, it will not be able to require landscaping to be carried out to assimilate them within the surrounding area, which is an important consideration given the site’s sensitive location.”*

**In view of the above, and provided that the facts incorporated in the documentation accompanying the application, together with the presentation we have received, are all proven to be correct, the Parish Council considers that this application will offer a more certain future for the site and the environment and would therefore, give qualified support to an amended application, subject to the following conditions being satisfied:**

- We do not support the applicant’s use of contemporary design. It could be argued that design is not important if the site is to be well screened, or indeed that screening will be more difficult to achieve with buildings of traditional (taller) design. We would regard re-development of this site as an opportunity to significantly improve its appearance, irrespective of screening (which in any case will be less effective during winter months), and that in order for this to be achieved traditional design and materials should be used, including pitched roofs and Cotswold stone cladding. We expressly do not wish for this site to be the first

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experiment in the high Cotswolds of a development of multiple units of contemporary design.

- We want the Riding Centre to be retained within the development. It is a valuable asset to the community, cannot be relocated easily and its potential loss has prompted a strong lobby of support from the Parish and beyond. We believe that by reducing the number of houses proposed or by a rearrangement of the layout, it should be possible to integrate the Riding Centre within the brownfield site area. We understand that currently, the Riding Centre has use of some of the remaining 86 acres to the north of the proposed development and which has been acquired by the applicant as part of the wider Ullenwood Court site. We would wish to see this continue.
- We were advised by Simon Hoare, of Community Connect, representing the applicant at our Parish Council meeting of 14 January 2015, that the development would be confined to approximately 15 acres out of the 102 acres acquired. We were given an undertaking that measures would be put in place to ensure that there would be no further development on the 102 acre site and that land may be rented to a local farmer. We ask that, if CDC is minded to grant permission to this application, it places a condition that a Restrictive Covenant or whatever legal measures may be appropriate are put in place to ensure that the remainder of the land purchased but not included in the proposed brownfield land development is protected from future development and restricted to agricultural or pastoral use.
- Mention has also been included of financial contributions under Section 106 planning obligations towards schooling. The Planning Officer's Advice Note (Planning Statement – App 2) indicates that Gloucestershire County Education has confirmed that the nearest primary school to the site is Shurdington C of E Primary which is 1.5 miles away. However, it is our understanding that the majority of the north-western section of Greenway Lane which runs from the site to Shurdington, is unsuitable for motor vehicles and that the realistic distance to this school is some 4.4 miles. However, the parish of Coberley, in which this site is located, has a C of E primary school which is 2.3 miles away. Any primary school funding which is determined should therefore be focused on the local school at Coberley.
- Similarly, paragraph 4.71 of the SF Planning Statement refers to: *"In the case of affordable housing due to the nature of the proposed development and the sensitivity of the site's location in protected landscape it is proposed a financial contribution will be made to allow affordable housing provision off-site."* The Parish is currently conducting a Housing Needs Survey and we would expect

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priority to be given to any needs in Coberley parish in any Section 106 affordable housing funding allocation.

- There is still concern over the visual impact that the proposed development would have in reality. 27 dwellings of the capacity indicated in the proposals will create a substantial presence in the area and it is felt that there may be more visual impact than suggested. We ask that CDC looks into this in detail and takes the necessary steps to ensure optimum screening and landscaping.
- Paragraph 4.68 of the SF Planning Statement states that: "*..... it is the applicant's intention create a fund, to be administered by the Council, and to which all current business occupiers will have access in order to assist them with any change of premises. For example, the fund could be used to help with, amongst other things, initial relocation costs, new stationary to reflect the new address, the difference between current and new rentals etcetera*". This is also mentioned in paragraph 4.72 where it is stated that such a fund would be the subject of a planning obligation.

We ask that the details of this proposal are clarified in terms of financial amounts being made available, duration (i.e. where rentals are involved, over what period would the payment of difference between current and new rentals be sustained? Whilst we acknowledge that tenants have no security of tenure, we ask for assurance that this financial assistance will be at a level considered reasonable by the tenants.



## ULLENWOOD COURT

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**ADVICE**

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## 1. Application reference 14/05225/OUT:

*Outline planning application for residential development consisting of 20 units and associated works and the provision of equivalent replacement stable facilities and riding arena<sup>1</sup>*

on land at Ullenwood Court ('the proposed development') is currently before the Cotswold District Council for determination.

2. The application site contains 37 low rise buildings and a mix of open spaces<sup>2</sup> dating back to the 1930's/40's when it had a military use.

## 3. The Design and Access Statement 2.3 says:

*A planning approval for the conversion of 23 of the units via permitted development rights from their current commercial use to residential use was granted earlier this year [2014].*

4. The application site lies in Green Belt (GB) and in the Cotswold Area of Outstanding Natural Beauty (AONB). I am asked to advise<sup>3</sup> on two issues, whether:

- (i) the application will be 'judged negatively' in terms of Green Belt and National Planning Policy Framework ('NPPF') policy relating to 'brownfield' land in the light of the judgement of Ouseley J. in R. (oao Lee Valley Regional Park

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<sup>1</sup> Formal description of the proposed development on the Cotswold District Council's web site.

<sup>2</sup> Design and Access Statement 2.2 -2.3

<sup>3</sup> Simon Firkins email to Max Smy 06/03/2015: 16.42

Authority) v Broxbourne BC and Britannia Nurseries [2015] EWHC 185 ('the Broxbourne case');

- (ii) the proposed development comprises 'major development' within the National Planning Policy Framework (NPPF) 116.

**Issue (i)**

5. Paragraph 89 of the NPPF affirms that the construction of new buildings in the Green Belt is inappropriate, subject to exceptions. One exception is replacement buildings for the same use provided that the new is "not materially larger" than the old. That is not directly applicable to the proposed development but it exemplifies the policy that there should generally be no harm to the openness of the Green Belt. Another exception that is relevant to the proposed development is the redevelopment of previously developed land which does not have a greater impact on the openness of the Green Belt and on the purposes of including land within the Green Belt than the existing development. The NPPF glossary defines "previously developed land" as:

**"Previously developed land:**

Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface

structure have blended into the landscape in the process of time.”

6. As described, the application site with its 37 buildings currently in commercial use would not appear to come within any of the exclusions listed in the definition.
  
7. In the Broxbourne case, the site in question comprised buildings, structures and open grassed scrub land in the Green Belt formerly used as a horticultural nursery. In applying the NPPF definition ‘previously developed land’ in that case Ouseley J. (paragraph 40) said:
 

*The policy first looks at the present position and asks what buildings occupy the site, to which the answer is: buildings lawfully not used for agricultural purposes. The present tense deals with the position as it is.*
  
8. The DAS 2.3 says of the 37 buildings on the application site:
 

*Many of these buildings are now in use as offices or light industrial units. Some of them have been converted into holiday cottages. The ‘present position’ on the application site, accordingly, is that the 37 buildings occupying the land would require the site to be treated as land which is occupied by permanent structures and ‘previously developed land’ in the Green Belt for the purposes of NPPF paragraph 89 bullet 6.*
  
9. In the Broxbourne case paragraph 51 Ouseley J. said:
 

*While I accept Mr Harwood’s point, that the flexibility in the NPPF for previously developed land may not require every part of the application site to have been previously developed land, the presence of some previously developed land within an application site does not make the whole site previously developed land either, applying the definition in the NPPF. The NPPF itself draws a limit on whether a site is previously developed land by reference to the curtilage of the buildings.*

10. Having regard to the density of the existing buildings on the application site and their close proximity to one another as shown on the application plan 'Existing and Proposed Footprints,' and accepting that a degree of flexibility needs to be applied, it may reasonably be judged that the application site is appropriately described as 'previously developed land' for the purposes of applying the exception 'complete redevelopment of previously developed sites (brownfield land)' in NPPF 89.
11. In short, the Broxbourne case applied to the circumstances of the application site supports the judgement that the site, as existing, is 'previously developed land' as defined in the Glossary in Annex 2 to the NPPF and a candidate site for 'complete redevelopment' in the Green Belt within paragraph 89 of the framework.

#### Issue (ii)

12. Paragraph 116 of the NPPF says:

*Planning permission should be refused for major developments in these designated areas [AONB] except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:*

- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

13. The first issue arising under the paragraph is whether the proposed development constitutes 'major development.' Only if that issue is determined in the affirmative is consideration required to be given to the criteria contained in the three bullet points in paragraph 116.

14. 'Major development' is not defined in the Annex 2: Glossary or elsewhere in the NPPF. Paragraph 005 Reference ID: 8-005-20140306 of the Planning Practice Guidance advises:

*Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest.*

*Whether a proposed development in these designated areas should be treated as a major development to which the policy in paragraph 116 of the Framework applies will be a matter for the relevant decision taker taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable.*

15. The absence of a precise definition of the phrase in national policy is no pretext for the making arbitrary determinations as to whether proposed developments in the AONB constitute 'major development.' The administrative decision maker, acting lawfully, would need to have regard to objective criteria in coming to a determination of the matter in every case consistent with Wednesbury<sup>4</sup> principles.

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<sup>4</sup> In Associated Provincial Picture Houses Ltd v. Wednesbury Corporation [1KB 223] Lord Greene, M. R. said (at 229):

It is true the discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word "unreasonable" in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably." Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington LJ in Short v Poole Corporation [1926] Ch. 66, 90, 91 gave the example of the red-haired teacher, dismissed because she had red hair. That is unreasonable in one sense. In another sense it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith; and, in fact, all these things run into one another.

16. While the class of development constituting 'major development' within NPPF 116 is open ended, it can reasonably be concluded that developments that would occupy substantial areas of land in the AONB, for example sand and gravel extraction or military base development, would come within the class. The several criteria in the three bullets in paragraph 116 to which regard must be had in assessing the impact of 'major development,' would imply that development of more than local significance is embraced by the phrase.<sup>5</sup>
17. The proposed development of 20 houses at Ullenwood Court is not development of that character; however, applying the guidance in the PPG, that fact, by itself, would not necessarily be determinative of it not being 'major development.' The policy context in which the judgement whether the proposed development constitutes 'major development' needs to be made is provided by NPPF 115 which sets out the fundamental purpose of AONB designation; that is, to conserve landscape and scenic beauty. In this context, it may reasonably be concluded that a development which would be likely to have a significant adverse impact on the landscape and scenic beauty of the AONB could come within the class of development constituting 'major development.'
18. Following the guidance in the PPG, in determining whether the proposed development of 20 houses at Ullenwood Court falls within that class,, regard must be had to the 'proposal in question and the local context.' The 'proposal in question' involves redevelopment of previously developed land for housing; and the 'local context' is one in which the development site is land occupied by 37 buildings in mixed commercial and residential use with associated infrastructure and open space.
19. This approach to the determination of whether the proposed development constitutes major development requires a before and after assessment; the before

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<sup>5</sup> The cancelled PPS7: Sustainable Development in Rural Areas 2004 paragraph 22 stated: 'Major developments should not take place in these designated areas, except in exceptional circumstances. This policy includes major development proposals that raise issues of national significance.'

being the 'local context' and the after, the likely effects on the 'local context' of the 'proposal in question.'

20. The exercise conducted in the DAS and associated landscape studies demonstrates that the proposed development would, to all intents and purposes, be kept within the footprint of the existing previously developed land in the AONB and concludes that 'this development, if consented will provide for the enhancement of the site and visual quality of the surrounding environment.'
21. Taking into account the reality of the application site being previously developed land with 37 mainly commercial buildings and associated infrastructure and open spaces, and the spatial constraints employed in the design of the proposed development restricting the 20 dwellings to more or less the footprint of the existing developed site (both in terms of area and height of built development), it may reasonably be concluded, having regard to the 'existing context' of this part of the AONB and the 'proposal in question' that, on any objective view, the proposed development would not constitute 'major development' in the Cotswold AONB within NPPF 116.

Timothy Comyn  
Chambers of Andrew Tait Q.C.  
Francis Taylor Building  
Temple  
London EC4Y 7BY

9<sup>th</sup> March 2015



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## Highways Development Management

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Cotswold District Council  
Trinity Road  
Cirencester  
Gloucestershire  
GL7 1PX

Please ask for: Alison Curtis

Our Ref: C/2015/033312

Your Ref: 14/05225/OUT

Date: 27 May 2015

Dear Katherine,

**TOWN AND COUNTRY PLANNING ACT 1990  
HIGHWAY RECOMMENDATION**

**LOCATION: Ullenwood Court Ullenwood Gloucestershire**  
**PROPOSED: Outline planning application for residential re-development consisting of 27 units and associated works (access, layout and scale to be determined)**

I refer to the Technical Note reference R/151160/02/Iss2 detailing the trip generation comparison submitted in support of the application. The details are sufficient to quantify the impact of the proposal, although ideally the existing trip generation should have been taken from a survey of the existing site operation.

Swept Path Analysis of a large refuse vehicle traversing a site with an oncoming car have been submitted on drawing numbered 151160 – AT06(A), 151160-AT01(A), 151160-AT02(A), 151160-AT03(A), 151160-AT04(A) and 151160-AT05(A).

The plans show the vehicles' wheel tracks and body overhang and show some intervisibility splays however, there are areas where the oncoming vehicles are shown to collide. 0.5m clearance between vehicles has not been provided on the relatively straight section at the driveway to plot 18. Clearance does not appear to have been provided outside plot 19

The large intervisibility splay close to plot 18 is through an area of TPOd trees which cannot be removed; therefore this visibility splay is not acceptable.

There are two scales shown on the plan, the scale bar at 1:500 appears to relate to the plan and not the 1:250 stated in the title block.



The body of the vehicle is shown to oversail the carriageway edge at the 'T'-type junction within the site.

There is a line shown at plot 8 that is confirmed as visibility splay on the site layout plan but should be shown shaded on the SPA plans.

How will the visibility splays be maintained at a height no greater than 0.6m above the height of the adjoining carriageway?

The bin collection point for plots 1 and 2 is acceptable.

The plans do not overcome the previous refusal reason recommended on the 19<sup>th</sup> February 2015.

Yours sincerely,

Alison Curtis  
Development Co-ordinator

14105225100T

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


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- Preliminary
- Feasibility
- Planning
- Building Regulations
- Tender
- Construction Issue
- As Built

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Revised:  
 A: March 2015 AM Revised to JPA Agreement

Drawing title: OS Site Plan		Project: Ullenwood Court	
Client: William Morrison (Ullenwood) Ltd	Scale: 1:2500 @ A1	Drawn by: RCM	Date: 16/07/2014
Checked: JE	Job number: 14.20.015	Draw no: PL001A	

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141052251017

202



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 www.cearchitects.co.uk

**Project:** Ullinwood Court  
**Scale:** 1:1000 @ A1  
**Date:** September 2014  
**Drawn by:** AH  
**Checked:** JE  
**Job number:** 14.20.015  
**Draw no:** P003 E

**Drawing title:** Proposed Site layout

**Client:** William Morrison (Ullinwood) Ltd  
**Drawn by:** AH  
**Checked:** JE  
**Job number:** 14.20.015

**Revisions**

A	December 2014	AH	Final layout plan (1:1000)
B	December 2014	JE	Final layout plan (1:1000)
C	February 2015	JE	Final layout plan (1:1000)
D	February 2015	AH	Final layout plan (1:1000)
E	May 2015	AH	Final layout plan (1:1000)

**Notes**

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**Checklist**

Preliminary  
 Feasibility  
 Planning  
 Building Regulations  
 Tender  
 Construction issue  
 As Built

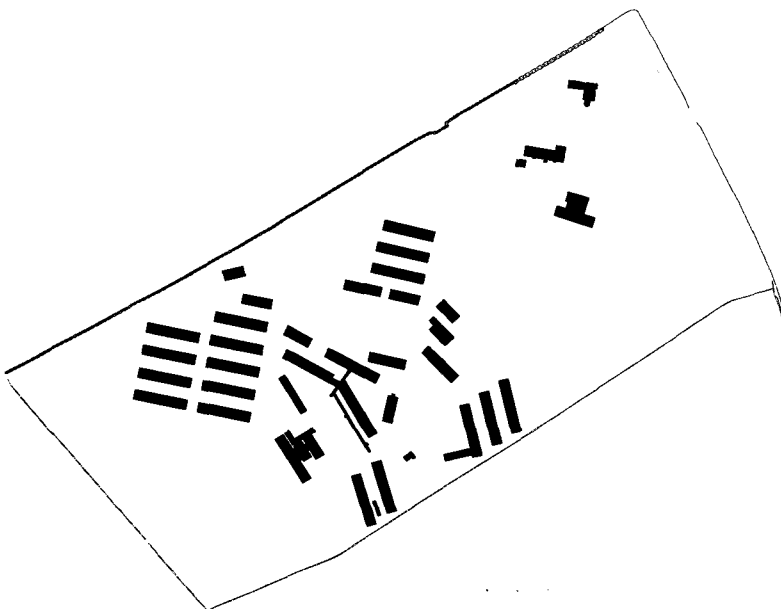
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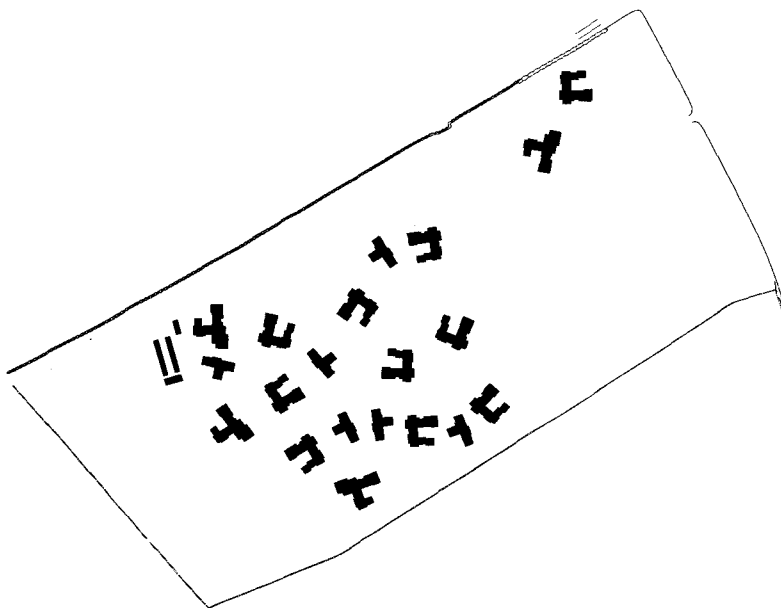
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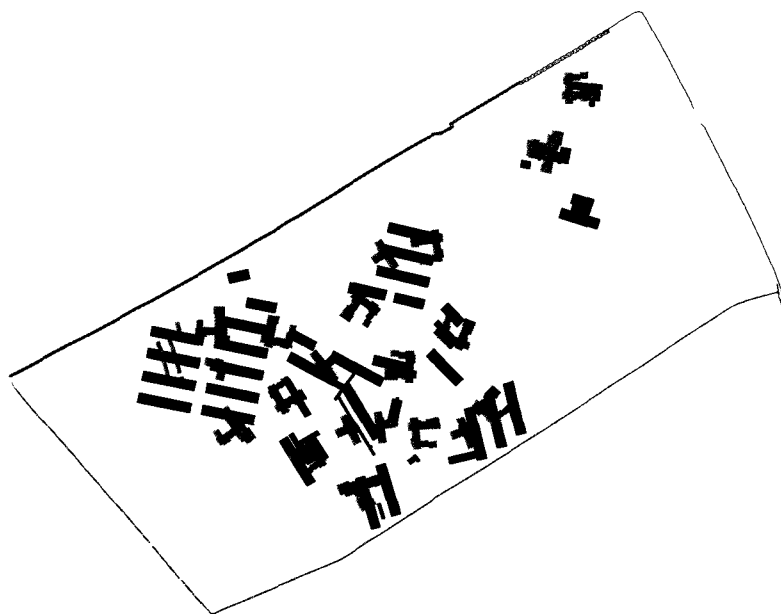
203



Noli Plan - Existing buildings on site



Noli Plan - Proposed buildings



Existing and proposed building footprints

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A February 2015 JE. Not intended to indicate any liability.  
 B February 2015 JE. Not intended to reflect agreed or any relevant number of drawings.

Drawing title: Schematic Plans  
 Client: William Morrison (Ullinwood) Ltd  
 Drawn by: AH  
 Checked: JE  
 Job number: 14-20-015

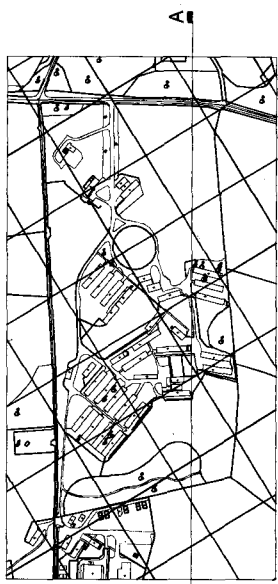
Project: Ullinwood Court  
 Scale: 1:2000 @ A1  
 Date: 15-09-2014  
 Draw no: PL1004 Rev B

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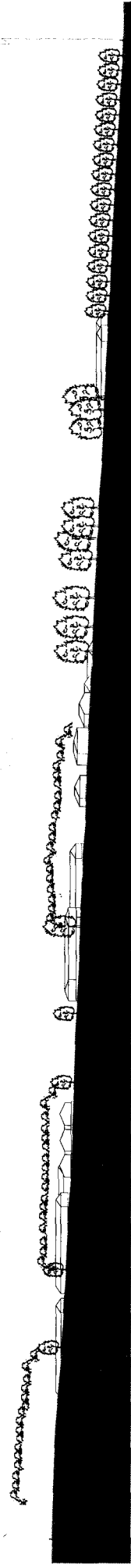
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205

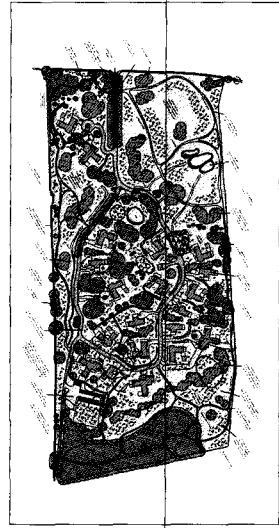


Existing Site plan 1:5000 @ A2

Extent of Site



Existing Site Section A-A - 1:1000 @ A2



Proposed Site plan 1:5000 @ A2

Extent of Site



Proposed Site Section A-A - 1:1000 @ A2

Plot 2 Plot 1

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