

Date of Meeting	28 th August 2014
Application Number	14/01766/OUT
Site Address	Land off Rabley Wood View, Marlborough.
Proposal	Residential development and associated works
Applicant	Manton House Estate
Town/Parish Council	MARLBOROUGH
Ward	MARLBOROUGH EAST
Grid Ref	419023 170145
Type of application	Full Planning
Case Officer	Rachel Yeomans

Reason for the application being considered by Committee

This application has been called to Committee at the request of Councillor Stewart Dobson.

1. Purpose of Report

To consider the recommendation that the application be approved subject to satisfactory results of the archaeological field evaluation investigations, with conditions, and subject to a new legal agreement which shall include provisions to secure deeds of variation to effectively substitute the existing open space land (covered by two historic Section 52 agreements), with the proposed compensatory open space land proposed.

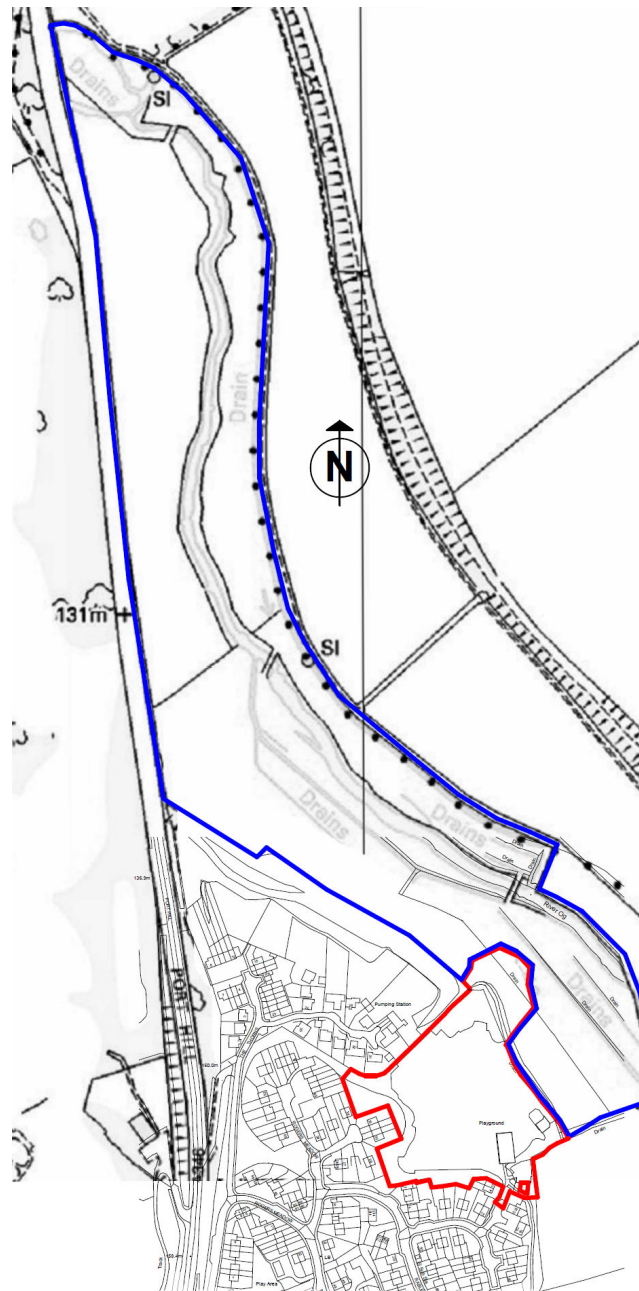
2. Report Summary

The key planning issues are considered to be;

- The principle of the proposed residential development including whether the proposed 'replacement' recreational / nature park land is sufficient to compensate the loss of the existing site for recreational purposes.
- Highway safety
- Flood risk and drainage
- Visual impact including whether the development would compromise the wider landscape designated as the North Wessex Downs Area of Outstanding Natural Beauty
- Contamination
- Ecology
- Residential amenity
- Whether the scheme would make adequate provisions for open space, education, affordable housing needs arising from the development, in line with the Council's policy requirements
- Archaeology
- Infrastructure

3. Site Description

The application site lies towards the edge of the market town of Marlborough. The site is accessed by proceeding northwards from Marlborough Town Centre on the A346. Proceed up Herd Street and before Marlborough Golf Club, turn right into North View Place. Turn immediately left into Newby Acre and follow this road around to the right. After this corner, turn left into Rogers Meadow and first right into Rabley Wood View and take the first left turning down to the play area where the site can be found at the end of the no through road. The existing site is a sloping parcel of land, towards the edge of the town and bounded by residential development on three sides. It is currently mostly laid to grass, with an area of trees towards the south and west edges and a landscaped boundary to the eastern boundary with the open countryside beyond. The site includes an equipped play area for smaller children and other pieces of equipment spread around the edges of the site for older children. The site also includes a set of goalposts.



Site Location Plan

4. Planning History

14/03379/FUL	Change of use from agricultural land to nature park including compensatory recreational land associated with the residential development of the play area off Rabley Wood View
K/13319/D	Residential development for 34 dwellings (adjacent site)
K/16218	Erection of 37 one bedroom flats, 53 two bedroom houses, 16 three bedroom houses, parking and open space.
K/19339	Erection of 115 dwellings and associated works

5. The Proposal

The application proposes the site be utilised for a landscaped residential development, including affordable housing, a play area and open space. The site currently includes an equipped play area, other play equipment, trees and landscaping and a kick about field. An additional area to the northeast of the main site is included within the red line to provide a balancing pond to deal with surface run off and it is intended that this would form a hibernacula for wildlife. This application should be read in conjunction with concurrent application, 14/03379/FUL which is also for determination as the previous item on this agenda. That application proposes the change of use of a separate parcel of land in agricultural use, for a Nature Park including an area for Casual Play. This separate application is offered in addition to the Casual and Equipped Play Areas being offered on site as consideration for the loss of the existing recreation site and to cater for the additional demand as a result of the proposed new dwellings.

The application seeks outline consent only to establish the principle of residential development on this site, with all matters (landscaping, scale, access, layout and appearance) reserved for separate consideration by means of further planning application(s).

6. Planning Policy

The National Planning Policy Framework with particular regard to Chapters 4, 6, 7, 8, 10, 11 & 12.

Kennet Local Plan - policies PD1, HC1, HC5, HC7, HC28, HC29, HC30, HC31, HC34, HC37, HC42, NR6, AT1 and HH1 of the adopted Kennet Local Plan 2011 (HC21, NR10 not saved). Within the Local plan, the site identified for housing lies within the Limits of Development and was *not* identified within the KLP 2011 as a 'protected' recreation site under Policy TR17, but nevertheless, the agent within the submitted planning statement has sought to apply the principles of this policy to the site. Supplementary Planning Guidance: Community Benefits from Planning and the Kennet Landscape Conservation Strategy are also applicable.

The emerging Draft Wiltshire Core Strategy with particular regard to Core Policies 1, 2, 14, 41, 43, 45, 50, 51, 52, 57, 60 and 61. Whilst these policies cannot yet be afforded significant weight, they are a material consideration.

The site is within the North Wessex Downs Area of Outstanding Natural Beauty. (AONB),



Illustrative Site Layout

7. Consultations

Marlborough Town Council – object to the proposals on the grounds of highways issues, an existing deed of variation, wildlife concerns, parking and safety issues and on the basis that the proposed compensatory like for like land is unsuitable.

Mildenhall Parish Council – Object

Wiltshire Council Drainage – The Council’s Drainage Team have commented on the proposed Land Drainage Strategy submitted by the agent and is satisfied with all aspects of the submission bar one upon which he has provided further comments. ‘If we want the pitch to remain dry during all situations then we must consider what happens when the River Og floods out of bank. The Environment Agency flood mapping leads me to assume that the flood water will spread for about 25 to 30 m on each side of the river. At that flood level any of the proposed new drainage lower than that level will be inundated so to ensure that the new drainage can always drain somewhere no excavation should be below the floodplain water level for a 1 in 100 year flood event.’

Officer note: The plans show that the nearest part of the kick about area would be approximately 60 metres from the river and consequently, it is reasonable to conclude that such a drainage system will not be inundated for the vast majority of the time and that the kick about area can be utilised for most of the year.

their intention to agree to such contributions based upon the up to date information at the time of the agreement.

Wiltshire Council Environmental Health –In respect of contaminated land, we have a map which makes reference to a landfill used during the 1930's / 40's in the vicinity of the proposed development. As a consequence of this I would be looking for either a contaminated land condition to be applied to any planning permission granted or for a suitable ground survey to be carried out in advance to basically reassure us all that this landfill is not located at or in the vicinity of the proposed site.

Wiltshire Council Highways – No objection subject to conditions and informatives

The location is considered to be sustainable in transport terms, and the local roads and junctions will cope adequately with the levels of traffic which would be generated, subject to the existing junction of the short Rabley Wood View cul-de-sac with the main Rabley Wood View road being widened slightly at the junction from 4.5m to 5m by reducing the footpath width on the south eastern side, to more easily enable two vehicles to pass in the junction. Construction of the site and the access alterations will lead to damage to the existing highway on the Rabley Wood View cul-de-sac which provides the development access. The cul-de-sac will need to be resurfaced at the conclusion of the development.

The existing dirt path from the north western corner of the site to the Thorns must be made up to a surfaced 2 metre wide path as this will be a desire line for pedestrians. The area is public open space and therefore should be in the same ownership as the rest of the site.

Wiltshire Council Housing – No objection subject to legal agreement to secure adequate provision in accordance with the Council's current approach as per the applicant's submission.

I note a 40% affordable housing contribution equating to a total of 18 on site affordable housing units has been proposed by the applicant, the tenure of which has been split 85%/15% (affordable rent/shared ownership). This proposal would meet a demonstrable need and also takes into account the high level of need for rented accommodation, as well as affordability levels for shared ownership homes in this location. This accords with the Council's current approach towards affordable housing requirements.

Wiltshire Council Landscape Officer – This outline planning application is supported by a Landscape and Visual Impact Assessment, prepared by WH Landscape Consultancy (Nov 2013). In my opinion the proposed residential development could be successfully accommodated within the proposed residential development area without negatively impacting on wider landscape character or visual amenity. Raises the concern that the LVIA does not properly assess the impact of the football pitch and other features and although appreciates that this is an outline application which will require further detail to be agreed is concerned that the application is starting to become confusing; i.e. the Nature Park does not form part of this application but details are provided in support of it; The football pitch and the attenuation pond are not included within the red line residential site application boundary but are presumably essential components of the planning application?

Officer note: the attenuation pond is located within the red line and the Nature Park is the subject of a separate change of use planning application being considered concurrently. The proposed kick about area / casual space is not intended as a formal sports pitch and the approach towards additional features to facilitate its use as a Nature Park can be carefully controlled by planning condition.

Wiltshire Council Open Space Officer – We have carried out an Equipped and Casual Open Space study in order to establish the Equipped and Casual Open Space requirements within the vicinity of the proposed development. The study confirms a reduction in the current local deficit of Equipped Play Space, and an overall increase of Casual Play Space, therefore it is confirmed that the holding objection by Environment Services is lifted.

In summary the findings are as follows:

*NB: Please see attached the calculation sheet, which details the numbers below.

Equipped Play Space:

Within a 240m radius of the current Equipped Play Space located on Rogers Meadow, there are 241 existing dwellings. 241 existing dwellings require 1,791sqm of Equipped Play Space. The current Equipped Play Space at Rogers Meadow is an area of 450sqm, therefore there is a current under provision of Equipped Play Space of 1,341sqm.

With the proposed 46 Dwellings in mind, this would increase dwelling numbers to 287 dwellings, this would mean in order for there to be a fully adequate Equipped Play Space provision level, there should be 2,132sqm of Equipped Play Space.

The development proposals provide an Equipped Play Space of 1,272sqm, although this does not equate to the full provision level required for the amount of dwellings within the 240m threshold. It is not fairly and reasonably related in scale and kind to the development to request 2,132sqm of Equipped Play Space.

With the proposed Equipped Play Space in mind, it reduces the Equipped Play Space deficit to 860sqm, from the previous Equipped Play Space deficit 1,341sqm.

Further, it must be noted that the proposed Equipped Play Space of 1,272sqm is of adequate size to cater for a like for like replacement in terms of area of the existing Equipped Play Space, and to cater for the increased demand from the new development. In addition, it must also be noted that the proposals detail the creation of a linear play route for older children within the Country Park.

Casual Play Space:

Within a 600m radius of the current Casual Open Space located at Rogers Meadow, there are 789 existing dwellings. 789 existing dwellings require 7,761sqm of Casual Open Space. The existing Rogers Meadow Casual Open Space is an area of 1.15Ha, therefore there is a current overprovision of Casual Open Space of 3,739sqm. It must also be noted that an area of Marlborough Common also lies within a 600m radius of Rogers Meadow.

With the proposed 46 dwellings in mind, this would increase dwelling numbers to 835, therefore in order for there to be a fully adequate Casual Play Space provision level, there would be a requirement of 8,216sqm of Casual Open Space.

The development proposals provide an onsite Casual Open Space of 5,389sqm within the development, which incorporate a grassed area adjoining the Equipped Play Space, the Southern Open Space and Woodland Open Space.

Further, it is also proposed to provide a Casual Play Space in the form of a kick about area to the North East of the development. The kick about area will measure an approximate area of 10,829sqm. (Assuming it is the size of a football field).

Therefore with the above in mind, the total proposed Casual Open Space will be in the region of 16,218sqm, which would mean an over provision of 8,002sqm.

In addition, it is believed from the agent that the 8.31Ha within the Nature Park will also cater for an array of Casual Play opportunities.

The agent has confirmed within the submitted Heads of Terms, that formal sports pitch contributions shall be made in accordance with planning Policy HC24. This is considered acceptable as calculated below

No of Dwellings	Calculation	Required Commuted Payment
46	46 Proposed Dwellings x £530.05 Per Dwelling	£24,403

Wiltshire Council Archaeologist - requires additional field evaluation prior to any grant of planning permission.

Environment Agency – Initially raised concerns about the scheme but further to information submitted on the 18th April 2014, their objection has been withdrawn subject to conditions and informatives.

AONB Officer - The North Wessex Downs AONB Unit raise no comments in respect of this development subject to the proposed Nature Park, its future management and ownership being fully controlled by a Section 106 Legal Agreement should the Council be minded to approve this application.

Sports England – Object to the proposals on the basis the proposals do not meet the standard pitch recommended sizings nor include changing / toilet facilities. [Officer note – it appears this objection is based upon a misunderstanding as to the current arrangements as the existing kick about space is not a formal pitch nor is the proposed replacement intended to be such a formalised pitch](#)

Thames Water – Regarding foul and surface water; No objection subject to Grampian conditions.

In respect of foul water, a condition is required to ensure that there is no discharge of foul or surface water into the public system from the site until an adequate drainage strategy has been agreed and such works have taken place. In relation to water supply, capacity studies are required to determine that supply will be adequate at a suitable connection point.

CPRE - does not object in principle to the development of this site given the shortage of suitable land for necessary housing in Marlborough. However the proposal as currently presented does not adequately deal with a number of significant issues including highway improvements, the need to show safe play areas are available year round (no objection to general principle of proposed compensatory public open space), school place provision, adequate foul and safe water supply. Assurances should be sought or secured via planning conditions.

8. Publicity

This application has been publicised by means of a site notice, neighbour letters and advertisement in the local press. The agent has also undertaken community involvement and has provided a detailed document setting out publicity and setting out comments received and how they have been considered as part of the development proposals. In addition, the agent has continued to monitor progress and consultee responses and has provided an additional statement to assist in addressing concerns raised.

Neighbour representations

A total of 37 representations of objection and 1 of support have been received, some of which provide lengthy and detailed comment. The points raised have been briefly summarised as follows;

Support

- Supports the principle of new development in Marlborough due to the desperate shortage of housing and affordable housing
- The current play area is rarely properly used. It has been subject to anti-social behaviour and is not busy even in the summer months. It seems strange that something that is not appreciated is now so precious when it is going to be changed.
- There is no real wildlife in the field where the houses will be
- The Country Park would encourage wildlife and is a lovely idea
- I do not think there will be a huge problem with the increased traffic. It is quiet especially during the day and 50 homes will not greatly impact. People already believe a roundabout is required at the junction with the A346 but this is due to traffic on the main road.
- I personally believe the objections are mainly due to loss of view and social housing being too close to them.
- The need for housing is so great in Marlborough, it outweighs all of these points of objection

Objections

Legalities

- The existing legal agreement restricts any development on the site without some agreement from the owners of the houses of Rogers Meadow. Without this the land cannot be released
- Also of concern is the fact that WC at present own the land for which outline permission is sought by the Manton Estate with whom they have been in negotiation for approximately 18 months and Wiltshire is the planning authority.
- That the open space is required as part of the development conditions of Rogers Meadow and Rabley Wood and cannot be replicated in view of the importance of its immediate proximity to the houses it serves and does not amount to a suitable alternative.

Highway safety

- Contrary to the traffic survey conducted by RCC, exit from North View Place on to the A346 particularly towards Swindon is difficult, not to mention dangerous.

- The new plan for 46 houses will not ameliorate this situation as the entrance from A346 requires people to turn right across the traffic flow from Swindon to access North View Place and Rogers Meadow
- The whole highway system at this, the only point of access/exit to the whole of the estate, already needs complete revision and is long overdue for improvement on safety grounds.
- In winter the estate roads are never gritted, so an additional 250+ car journeys attempting to negotiate roads which are icy and very steep in parts is surely an increased safety hazard. During icy conditions driving is so difficult throughout Rabley Wood View, Rogers Meadow and The Thorns due to the steep inclines and tight corners that many residents park their cars at the top of the main hill in Newby Acre. This restricts the road to one lane only and the additional cars generated in the area from the proposed new houses would make this situation even more dangerous. This will prevent emergency access.
- The new plan also shows a parking area for 12 cars for people who want to access the "Nature Park" so that will be even more traffic expected on already congested roads on top of the cars associated with the new houses.
- The proposed access road has cars parked all the way up to make it single track. There is also a blind crest which often means one is reversing down the road to let cars and buses etc. through. More houses will only compound this problem. There is no pedestrian crossing at the A346 – the proposals would expose pedestrians from additional risk from the extra traffic and create more pedestrians.
- The Transport Statement is skewed as it was carried out on a Tuesday when traffic levels would have been low and usual parking arrangements were disrupted. No account can be made of low key accidents/ near misses.

Landscaping/ Recreation/ Nature Park

- Woodland and existing hedges on the site should remain as they are- no tree felling should take place to facilitate the development
- The compensatory open space is not "like for like" and is not acceptable. It does not constitute a reasonable alternative as it is a water meadow.
- Use of the proposed "Nature Park" will also be curtailed by the fact that the area regularly floods. It will not be amenable to draining and even if this were tried it would almost certainly flood again the following year. Any drainage could increase flood risk further downstream.
- Once Thames Water cease abstraction from the Kennet in 2016 then the water table will be considerably higher.
- In terms of preservation of the countryside this land should be left as it is to protect all the wild life on the list provided to MTC, particularly as some are protected species

- The proposed new play area on the edge of the proposed development is screened from the houses by a hedge which should not be destroyed, so parents will not be able to see their children as promised but will have to supervise them at all times in order to safeguard them.
- The revised plan shows the hard play area and equipment being moved to the north east side of the plot of land (by the current stile used to access the River Og valley) but tucked away behind all houses. Our current play facilities are surrounded on 3 sides by housing, thereby making it an open and safe environment for young people. The proposal will make it an unsafe environment and more likely for anti-social behaviour such as vandalism and drug abuse.
- The existing legal documents covering previous planning applications (K/82/0144 & K/86/1200) state that the recreation area must be “adjacent to the houses”, so moving it into the water meadow will not meet these criteria. They also state that the area will be “suitable for small children to play within sight of the dwellings”, but as noted above the proposed plan moves both the play area and the “kick about” area away from view of all houses.
- The land being offered has little agricultural value and particular management issues which will not disappear if ownership is passed to the Council, including increasing requirements on water pollution and maintenance of paths exacerbated by regular high water levels. These costs should not be underestimated.
- There are other local green spaces available and no need to take on this considerable liability.
- The existing play area is very well used. It is a very communal area for families of Rabley and surrounding areas to join together and the thought of its loss is terrible.
- The proposed attenuation pond is a significant hazard for children so close to the play areas.

Amenity

- There would be considerable disruption if the scheme comes to fruition, not least because the entrance designated as the access to/from the site would require builder traffic, to use the Rogers Meadow Newby Acre decanting into North View Place, route to reach the A346, whilst the builders would also use the same route in with the resulting emissions and pollution from their HGV's and the noise pollution of their machinery.
- Increased traffic flow will also adversely affect the air quality of the neighbourhood with additional cars causing more traffic delays on the Herd Street area with standing vehicles exacerbating the poor air quality.
- The open space at Roger's Meadow specifically envisaged it as being adjacent to the houses and thus any change would make this less commodious. A similar position can be advanced in respect of Rabley Wood Drive

- Back to back distances between the proposed three terraced houses and The Thorns (31) would result in unacceptable mutual overlooking and significant loss of privacy as would the footpath, contrary to what is stated in the DAS and within the Council's Supplementary Planning Guidance 'Community Benefits from Planning'.
- We are also concerned about boundary fencing.
- Neighbours are not allowed to object to loss of a view and yet 'views out' are quoted as a huge opportunity to be taken advantage of. This is unfair.

Flooding

- The proposed kick around area could not be drained because this is a water meadow (it has been waterlogged from Dec 2013 to March 2014) – the only solution would be to build up the land but this could cause other damage
- Trying to drain this area would increase flood risk further putting properties and wildlife at risk

Drainage and Sewerage

- Drainage in the area is renowned for having past problems. Any contamination of sewerage into the River Og would have severe consequences for both the Rivers Og and Kennet (SSSI). Also the pipe is very close to the children's play area.
- The Og valley sewerage pump has had four replacements in the past 2 years and is operating at 128% capacity. Any future expansion will need a substantial rebuild.
- Marlborough Treatment Plant is currently working at 98% when safe tolerance working level is 75% and this needs to be expanded by 35% to meet future needs. Will the developer contribute to such huge costs?
- We have a pumping station directly adjacent our property, running through our garden and under the current recreation area. We are concerned that the proposal will damage this infrastructure and put property at risk.

Contaminated Land

- No investigation has yet been undertaken. We know that cattle were found to have high levels of heavy metals and the area was used to bury hospital waste including an x-ray machine.

Other issues

- Financial contributions are not sufficient to overcome the cramming in of extra children into schools and their education will suffer
- Will this set a precedent for other development and will this mean that the status of the land as AONB will be lifted?

- Local services are already fully stretched including the single medical practice

9. Planning Considerations

9.1 Principle

The application site lies within the Limits of Development defined for Marlborough as set out within the adopted Kennet Local Plan 2011 and was not identified as a recreation site identified for special protection. This boundary defines where the principle of new development is considered acceptable and sustainable in terms of being accessible to local facilities and services. The National Planning Policy Framework (2012) sets out a strong presumption in favour of permitting 'sustainable' development, a term which encompasses economic, social and environmental roles. It particularly supports the provision of new housing as set out within Para 49, Chapter 6: Providing a Wide Variety of High Quality Homes and this has been subsequently reinforced by Ministerial Statements actively seeking a significant boost in housing land supply in order to help meet growing demand and deal with affordability.

Whilst the Council's position is that it currently has an adequate 5 year Housing Land Supply, it is of note that the Inspector considering the draft Wiltshire Core Strategy considers that overall numbers for the whole Plan area are about 5,000 short for the Plan period and the Council is aware that further sites will need to come forward. Although the draft Wiltshire Core Strategy identifies the accommodation of 600 new homes for the Marlborough Community Area, it should be noted that this is a *minimum* number. The proposed site would make a meaningful contribution to help meet these targets.

The application proposes to make provision for 40% of the proposed housing to be 'affordable housing' in line with the Council's current approach in Marlborough and that the tenure of these units shall reflect local demand. This would be a significant additional benefit, particularly given the high level of affordable housing need in the area. This would need to be secured via a legal agreement.

9.2 Legality of varying the existing Section 52 agreements and whether the proposed open space on offer is sufficient to allow for the loss of some of the current open space

The existing site is currently bound by two separate legal agreements which were secured as part of neighbouring developments back in the 1980's. Together with some additional minor matters, the key to these was to ensure that adequate and suitable provision was made in perpetuity for open space. One of the agreements was later varied to exclude part of the site.

On a procedural point, the variation/ replacement of the existing agreements do not need to take place in advance of the planning permission being issued but will of course need to be executed in advance of any development taking place to avoid any breach. It is therefore prudent that this issue is considered concurrently.

The legal tests for such an application area set out within Section 106(A)(6) of the Town and Country Planning Act 1990. This makes it clear that where an application is made, the authority may determine;

- (a) that the planning obligation shall continue to have effect without modification;
- (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or

(c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

In essence, it is therefore for Members to decide whether to permit housing on this site and in doing so, whether to accept the release of this land from the agreements in favour of accepting the proposed compensatory open space and additional land on offer. This would need to be secured at the time of the sale of the land and a new or modified agreement entered into by the purchaser but prior to any change of use of the land.

As the main issue in respect of this matter is whether the proposed land on offer as a Nature Park area, Casual Play Space and Equipped Play Space provision is sufficient to offset the loss of the existing kick about casual area and equipped spaces, this is considered below. As is clear from the neighbour representations, it is not simply a question of whether the quantity of land offsets the land lost, but consideration should also be given to quality, convenience and safety.

The table identifies the level of existing provision and compares this with the proposed levels of provision. It is notable that the proposed equipped areas and formal sports pitch contributions meet the Council's requirements set out in Supplementary Planning Guidance 'Community Benefits from Planning' in respect of the replacement of the existing facilities and catering for additional demand created by the proposed new houses.

Type Of POS Provision Level	Existing Provision Level	Proposed Provision Level
Equipped Play Space	450sqm	1,272sqm within the development + 340m linear Play Route within the NP.
Casual Play Space	1.15Ha	5,389sqm within the development + 8.31Ha within the NP.
Formal Sports Area	0sqm	£24,403 Off-Site Contribution (Sought, but not yet agreed)

Turning to the equipped play area, the proposed area would be substantially larger and contain more pieces of equipment than the existing equipped play area. It would need to accord with the Council's current standards and would be new, arguably offering enhanced play opportunities. The current layout plans shows this would be located on the existing recreation field but be relocated towards the northeast corner. In terms of walking distance, some residents would be closer and some would be further away. The main drawback to consider is that the field would not be so overlooked by or quite so convenient to some existing residents although it is currently proposed that several of the new dwellings would overlook the area.

Concerns have been raised in respect of the proximity of the proposed attenuation pond. Officers have considered this issue, however there are no better alternative locations for such a drainage solution and are mindful that such features have been incorporated close to play areas on many other developments without issue. Additional measures (fencing, for

example) could be required at detailed planning stage if this was a concern although the visual impact of such measures and impact on its suitability as a wildlife hibernacula would also need to be weighed up.

With regard to the casual space, the existing space comprises of a rather sloping grassed area, bounded to the east by a 15 metre buffer of vegetation secured as part of a former planning permission, which is proposed to be retained. At the west lies an area of woodland which is also proposed to be retained, whilst an area at the south of the site, currently laid to grass with some trees, would also be retained as casual open space areas. This would involve a net loss of 1.251 hectares of casual open space from the existing site. An area of some 0.5 hectares of casual open space could be retained on site.

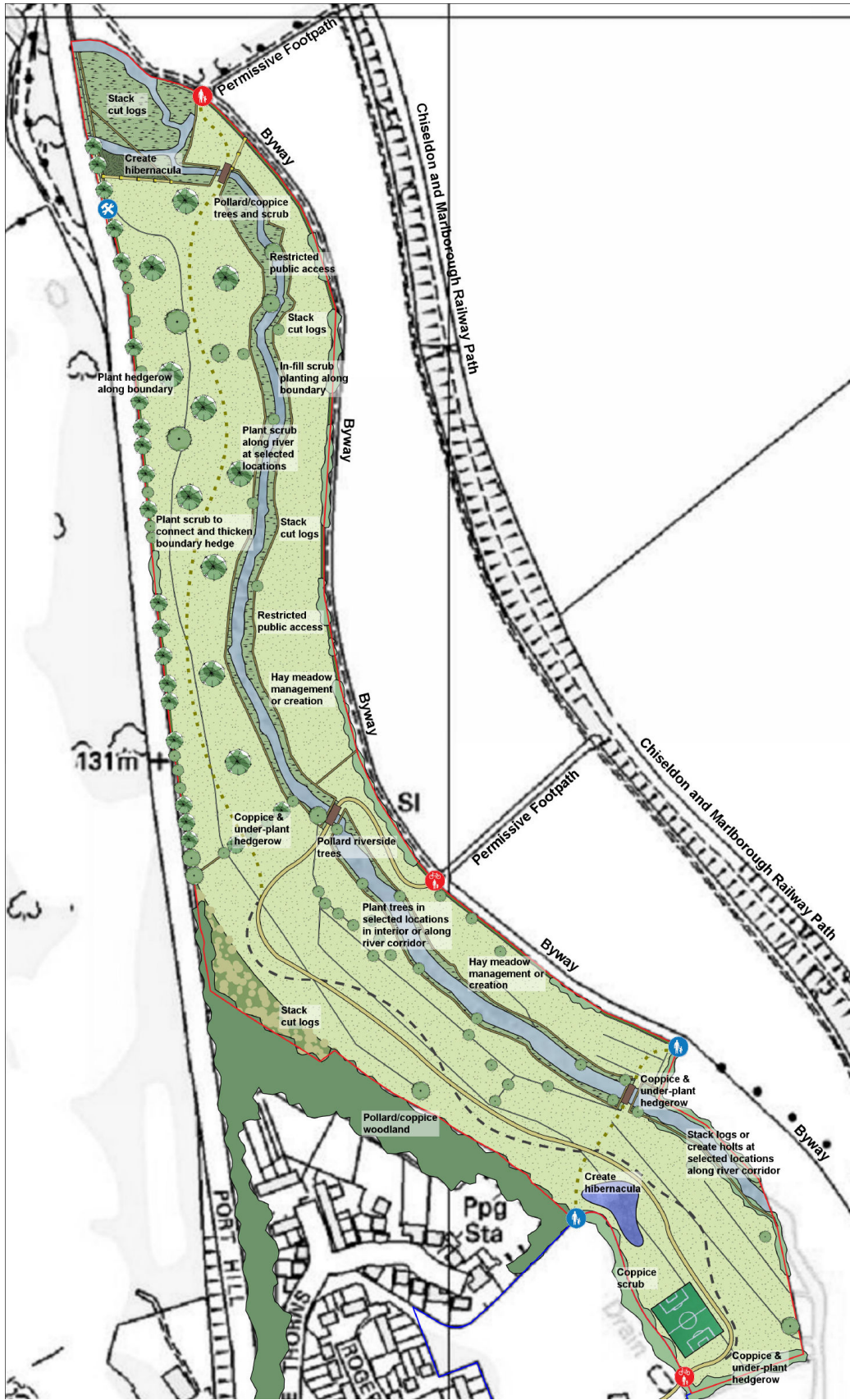
This is proposed to be replaced by an area dedicated for use as casual open space, between the proposed development site and the River Og amounting to same area. It is of note that this land is of a different quality; it is flatter, currently subject to marshy grassland and on lower lying land nearer to the River Og, such that it is likely that this land would be susceptible to flooding at certain times of the year.

The proposals make provisions for this land to be gently levelled, for grassland to be improved and for some drainage to be installed on the proposed replacement kick about area, closest to the development site itself and on the highest land furthest from the river. The Environment Agency Flood Risk Maps indicates that the areas liable to flooding are 25 – 30 metres from the River. The proposed kick about space identified on the plans is shown some 60 metres from the river at its nearest point. It is therefore logical to conclude that the proposed field drainage measures as provided by the agent will be successful in ensuring that the area is usable for the vast majority of the year and this is supported by the agent's drainage engineer in his letter. It is accepted that there may be times when the water levels may inundate the drains after periods of flooding conditions where conditions may not support the use of the field but officers consider it reasonable to conclude that for most of the year, conditions will be sufficient to support the intended use and may well be better than the existing facility.

In addition to the kick about area and casual space, an additional parcel of land amounting to 8.31 hectares of land is intended to be dedicated as a Nature Park. This is the subject of a separate planning application to change the use of this land, in order that it can be tied to the proposed residential development (via legal agreement) in the event that Members are minded to approve planning permission. It includes outline proposals for casual / natural play opportunities and it is intended that the legal agreement would secure access and improvements to the land including the basic infrastructure.

The Council's Open Space Officer has appraised the proposed position against the existing situation and in terms of the demands arising from the numbers of dwellings that would be located within various radii of the existing field (and therefore would likely be reliant upon using the existing open space opportunities). He has concluded that, *'The total proposed Casual Open Space will be in the region of 16,218sqm, which would mean an over provision of 8,002sqm. In addition, it is believed from the agent that the 8.31Ha within the Nature Park will also cater for an array of Casual Play opportunities.'*

Therefore, it is agreed that although the existing obligation continues to serve a useful purpose it is suggested to Members that this purpose would be served equally well if it had effect subject to the modifications specified in the application. That is, if that the area of existing open space the subject of the two agreements was effectively substituted by the proposed open space as set out above. This view is supported by the withdrawal of the initial holding objection from the Council's Open Space team.



Proposed Vision for Nature Park and Casual Open Space on Neighbouring Land

9.3 Private Property Rights

The issue has been raised by some of the objectors that there are 'private' legal rights over the open space land which would prevent the release of this open space land, and its replacement with other land for that purpose. Strictly speaking, this is not a planning matter as private rights are not a material consideration in deciding planning applications.

Anthony Sandell states in his executive summary that '...the transfer of the open space to the Council the operation of S62 of the Law of Property Act 1925 has almost certainly resulted in the transfer to house owners of quasi rights of use of the open space interference with which would be actionable particularly as the Council endorsed the requirement for the location of the open space with regard to its use by children and by being in the proximity of the houses.'

He goes on to say 'Without the agreement of affected house owners the Council are not able to release the existing open space from the obligations to maintain it as such in perpetuity'. The Council's legal officer has responded by stating that she does not agree with this statement. 'The Council 'has endorsed' the open space because it formed part of obligations in two s52 agreements, details of which you have, not because it has granted individual property rights, quasi or otherwise, to individual property owners.'

Those adjoining owners use the land 'by right', ie with the Council's permission, as it is open space and deliberately laid out to be used as such, so that the issue of private rights to use it as such does not arise. If they had used it, when we had not intended them to or had not given permission (this is known 'as of right'), then the position would be different.'

9.4 Residential amenity

The current application seeks outline consent only, with all matters reserved. In your officer's view, the illustrative layout is sufficient to demonstrate that the proposed number of dwellings could likely be accommodated on the site. The proposed layout does incorporate some elements which may not be ideal, such as properties to the north, which face the rear of properties in The Thorns, properties at the eastern edge which are too close to the landscape buffer and some properties which appear may have less than the 50 square metre amenity space as set out in the Council's Supplementary Planning Guidance, Community Benefits from Planning. However, these are matters which cannot be fully assessed until the final layout plans and detailed designs are submitted as part of the necessary 'Reserved Matters' planning applications. In general, the layout is well designed in terms of levels of amenity and it is not considered that this can be a reason to withhold outline planning permission.

9.5 Visual impact including impact on the AONB

The proposed site lies in a gap between two existing housing sites. As such, from wider viewpoints, the proposed development is very much seen as part of the built form of the town and the existing landscape buffer helps to provide a transition between the site and the open countryside beyond. The proposals intend to retain this buffer. The proposed development of housing at the scale indicated could be accommodated within the site both in terms of heights and densities such that the proposed development would appear compatible with the area and acceptable from a visual amenity and landscape perspective. The detailed design matters will need to be considered at Reserved Matters stage.

9.6 Highway safety

Highway officers do not agree with neighbours that the proposals would be detrimental to highway safety. They have carefully considered the junctions, traffic and parking issues as set out above but are satisfied that the site can accommodate the proposed development subject to conditions. Adequate consideration has been made for parking and traffic movements both within the development and to the wider highway network.

Additionally, the proposed location of the development is considered sustainable from a transport stance since it offers various opportunities for walking, cycling and public transport in order to access facilities and services.

The NPPF states at paragraph 32 that consideration should be given to *'improvements (that) can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'*

The highway officer recommendation includes securing of certain upgrades however highway officers do not consider that the proposal would result in such severe impacts that a refusal of planning permission could be warranted on this basis.

It should be noted that as the layout and access are specified as Reserved Matters, some of the recommended conditions within the highway officer's comments will only become relevant at Reserved Matters stage whilst those included within the recommendation are considered relevant to this outline application in the event Members are minded to grant planning permission.

9.7 Contamination

The Council's Environmental Protection Team, in considering historical maps and anecdotal evidence are satisfied that this matter can be adequately addressed via a planning condition. This would require specialist evaluation of the site and submission and approval of technical reports and remediation (if necessary), prior to construction.

9.8 Provision and Management of Open Space

In the event that Members are minded to accept the proposed areas of open space, including the Nature Park, adequate provision will need to be made for its future provision in perpetuity and maintenance through an appropriately worded legal agreement. Such provisions will also need to include the developer providing the upgrades (gentle levelling, reseeding and drainage) to the kick about area and the infrastructure to the Nature Park (including natural play facilities, paths, cycleways, gateways and bridges).

The Council's Adoptions Team have confirmed they would be amenable to managing the entire site including the Nature Park area, with financial maintenance calculation sheet provided separately. It is understood that the agent is currently exploring other Community Land Trust options with regards to the proposed Nature Park and the Council has confirmed financial sums for maintaining the kick about and casual play areas as well as the equipped and open space areas on site.

Therefore, officers consider that provided such safeguards are put in place to ensure that the open space is delivered and maintained in perpetuity in the form of planning conditions and a planning agreement, the proposed development is acceptable in this respect.

9.9 Archaeology

The Council's archaeologist has requested additional field evaluation prior to any grant of planning permission. Such works would require a license from the landowner and were considered to be locally contentious to undertake at this stage by the agent as they may be seen as being presumptuous. The agent is therefore seeking a resolution for approval subject to a favourable outcome of the upfront field works considered necessary and this seems reasonable in the circumstances.

9.10 Ecology

The applicant has included an Ecological Appraisal as part of the submission and the Council's Ecologist is satisfied there would be very limited impact on wildlife.

9.11 Flooding & Drainage

The Environment Agency initially raised an objection on the grounds of flood risk and expressed concerns about the submitted drainage strategy. However, the agent has subsequently submitted additional information which has satisfied the Agency that the proposed development can be accommodated such that they have withdrawn their objection subject to conditions which include the approval of a detailed scheme for surface water discharge at the required rate to ensure that the risk of flooding is not increased. In respect of drainage relating to the proposed kick about area, please see 'Drainage' comments under the consultee section above.

9.12 Foul and Surface Water Drainage

Having discussed these matters further with Thames Water, it appears that works relating to both upgrading foul sewerage infrastructure and water supply, are likely to be limited to upgrades to the existing pipe networks and modest arrangements which could be readily accommodated within the proposed development and could all be carried out under the permitted development rights of the Statutory Undertaker. The situation is not one in which Thames Water consider they could recommend a refusal of planning permission on this basis, notwithstanding the concerns raised by residents. Consequently, it is concluded by officers that the Grampian conditions as recommended can be reasonably imposed. Such conditions would ensure that the necessary works are carried out prior to any further strain being placed on the existing systems, with costs falling to the developer.

9.13 Contributions for formal sports pitch provision, education, affordable housing.

The agent has included with the submission, heads of terms which confirm that the Council's Policy requirements in terms of securing the necessary contributions towards formal sports pitch provision, education and provision of affordable housing shall be met. Subject to the necessary legal agreement to secure these provisions, these aspects are also considered acceptable.

10. Conclusion

The proposed development is sustainably located, within the Limits of Development and would provide a valuable contribution towards meeting the Council's housing and affordable housing targets, benefitting future occupants. Provisions secured via conditions and legal agreements would ensure that the additional demand placed on local resources could be met through the funding of school places, formal sports pitches etc.

Many of the neighbours who have made representations about the application consider that the existing open space is preferred over that proposed. However, when comparing quantity and considering quality, it is difficult to conclude that the proposed casual and equipped open space provision is inadequate or could not equally well serve the residents of both existing and proposed developments. It should also be noted that limited attention has been given in this report to the potential community and wildlife benefits of the intended Nature Park, as it may well be for the community to input into how this is taken forward. Nonetheless, the dedication of the proposed land for public access formalises its availability for walking and enjoyment and would provide many valuable opportunities for wetland/ river habitats, wildlife, community involvement and play.

Other matters of concern have been fully examined and many of these can be adequately addressed through planning conditions, obligations or at Reserved Matters stage. There are no overriding outstanding issues which Officers consider would warrant a refusal of

permission.

RECOMMENDATION

Approve subject to favourable outcome of archaeological investigations, planning conditions and prior completion of legal agreements (to include the effective variation of the existing two S52 agreements)

- 1 No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;
- (e) The means of access to the site.

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

- 2 An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 4 The landscaping approved as part of the reserved matters shall be carried out in the first planting and seeding season following the occupation of the dwellings or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development.

- 5 The details to be submitted under condition no. 1 of the layout of the development hereby permitted shall show at least one Equipped Area of Play of at least 1,272sqm and Casual Open Space of at least 5,389sqm, and no more than 46 dwellings.

REASON: To clarify the terms of the planning permission and to accord with Policy HC34 of the Kennet Local Plan 2011, in order to ensure adequate open space and green infrastructure.

- 6 No development shall commence on site until the trees on the site to be retained have been enclosed by protective fencing, in accordance with British Standard 5837 (2012): Trees in relation to design, demolition and construction - Recommendations, in accordance with the positioning and fencing type as specified in the submitted Tree Survey by WH Landscape Consultancy Ltd. After it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas unless otherwise first agreed in writing by the local planning authority.

REASON: To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity.

- 7 Prior to occupation of the 25th dwelling a 2 metre wide footway shall have been provided at the north west corner of the development, between the footways on the development and The Thorns, in accordance with details to be first submitted to and approved by the Local Planning Authority.

REASON: In the interests of providing adequate pedestrian access routes for residents of the development.

- 8 No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment has been carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the

commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved.

- 9 No development shall commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the local planning authority. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

REASON: To ensure that sufficient capacity is made available to cope with the new development to avoid sewage flooding; and in order to avoid adverse environmental impact upon the community.

- 10 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 100 year critical storm with an allowance for climate change. The scheme shall also include details of how the scheme shall be maintained and managed after completion. The scheme shall subsequently be implemented in accordance with the approved details.

REASON To prevent the increased risk of flooding, both on and off site.

- 11 No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

REASON: In the interests of sustainable development and climate change adaptation.

- 12 No development shall be commenced until impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Development shall be carried out in accordance with the approved details.

REASON: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

- 13 The development hereby permitted shall be carried out in accordance with the following approved plans:

Amended Location Plan received on the 29th May 2014
Archaeological Assessment received on the 17th February 2014
Composite Plan 1418-101 received on the 17th February 2014
Design and Access Statement, Draft Heads of Terms, Ecological Appraisal, Flood

Risk Assessment, Landscape and Visual Impact Assessment, Vision and Strategy Statement, Nature Park Figures 1-3 inclusive and Tree Survey all received on the 17th February 2014 and the submitted Land Drainage Scheme received on the 29th July 2014.

For the avoidance of any doubt, the Illustrative Site Layout Plan submitted on 17th February 2014, the Illustrative Site Sections A-D and site layout as shown/indicated on other composite plans are for illustrative purposes and do not form part of this planning approval.

REASON: For the avoidance of doubt and in the interests of proper planning.

- 14 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: In the interests of visual amenity.

- 15 INFORMATIVE:
This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].

- 16 INFORMATIVE:
This permission is for outline consent only, with all matters, including access, reserved. The developer should note that in the event the access is to remain as specified in the illustrative layout drawing, the following recommended conditions would be likely;

Prior to first occupation of the development hereby permitted the carriageway at the junction of Rabley Wood View cul-de-sac with the main Rabley Wood View road which is the vehicular access to the site, shall have been widened to 5 metres over a length of 17 metres in accordance with details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of safe and convenient access to the development.

Prior to occupation of the 40th dwelling the Rabley Wood View cul-de-sac serving existing dwellings 12-19 and its highway turning head (which provides the final access route into the development) shall have been planed off 30mm and resurfaced in accordance with details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of safe and convenient access to the development.

Prior to first occupation of any of the dwellings hereby approved the access to the site shall have been laid out and constructed as detailed on plan number 3846/100/A, and in accordance with further construction details to be first submitted to and approved by the Local Planning Authority.

Reason: In the interests of safe and convenient access to the development.

- 17 INFORMATIVE:
In respect of the Reserved Matters submissions, it should also be noted that; Parking must be provided in line with the standards set out in the document LTP3

Car Parking Strategy,

A rumble strip or entrance ramp will be required at the entrance to the shared surface road,

The turning head at the end of the road near plot 20 will need to be larger than on the indicative layout to accommodate refuse vehicle turning,

Road gradients must not exceed 1 in 15 without an early discussion with the highway engineer,

Carriageways must generally be 5.5 metres wide, and footways included segregated footways must be at least 2 metres wide.

18 **INFORMATIVE:**

There are public sewers crossing or close to the development site. In order to protect public sewers and

to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer, are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at www.thameswater.co.uk

19 **INFORMATIVE:**

The development should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered. An appropriate submitted scheme to discharge the condition will include a water usage calculator showing how the development will not exceed a total (internal and external) usage level of 105 litres per person per day.

20 **INFORMATIVE:** Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover: - the use of plant and machinery - oils/chemicals and materials - the use and routing of heavy plant and vehicles - the location and form of work and storage areas and compounds - the control and removal of spoil and wastes. The applicant should refer to the Environment Agency's Pollution Prevention Guidelines at: <http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>.