

APPLICATION NO.	P20/S1925/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	17.6.2020
PARISH	CHOLSEY
WARD MEMBER(S)	Anne-Marie Simpson Jane Murphy
APPLICANT	Mr Jaime Price
SITE	6a Kentwood Close Cholsey, OX10 9NQ
PROPOSAL	Erection of two storey dwelling (Retrospective) (amended by revised application form and plan received 9 July 2020; material schedule received 18 August 2020 and elevation plans received 19 August 2020).
OFFICER	Luke Veillet

1.0 **INTRODUCTION, SITE, BACKGROUND AND PROPOSAL**

1.1 ***Introduction***

This application has been referred to the committee at the request of Ward Councillor Simpson. In consultation with Cholsey Parish Council, they have made the request within 28 days of registration of the application and cited material planning grounds to justify the request. The Parish Council and Ward Councillor Simpson consider that the development conflicts with Cholsey Neighbourhood Plan policy CNP H6 in relation to parking provision. They consider the proposed development will result in inadequate off-road parking allocation and may compromise highway safety.

1.2 Your officers have considered the scheme against the councils' development plan (which includes the Cholsey Neighbourhood Plan) and all other material planning considerations. It is recommended that on balance, planning permission is granted. This report considers all issues and justification for this recommendation.

1.3 ***Site***

The application site historically comprises part of number 6 Kentwood Close's residential plot, located within the built-up limits of Cholsey Village. As will be described in more detail below, this has now been subdivided into a separate plot to create '6a' under planning permission P17/S0043/FUL. It is a corner plot at the end of a cul-de-sac in the south western corner of the cul – de- sac. Kentwood Close was part of a larger housing development in the vicinity, granted planning permission in the 1950's. The site is not situated in any area of significant policy constraint, other than an area of archaeological interest, in an area known for Roman Coins Find Spots. A plan showing the location of the site is attached at **Appendix 1**.

1.4 ***Background***

A somewhat slightly unusual sequence of events has led to the submission of this application, which is partially retrospective. This is summarised below, broadly in sequential order;

- Planning permission was granted for an identical development to the proposed on 15th March 2017 (P17/S0043/FUL).
- This permission was granted with a single ‘pre-commencement’ condition which required a schedule of materials for the external finish of the scheme to be submitted prior to development commencing (Condition 3)
- The applicant bought the land from the owner of number 6 in early 2020
- Development commenced by digging foundations for the dwelling on 2 March 2020, but had not complied with Condition 3, resulting in a breach of planning control.
- Through a combination of building control inspections and subsequent liaison with the planning enforcement team, it was recommended that a new planning permission would be required as the development had not commenced lawfully and there would not be enough time before expiration of the permission to assess the details (expired 15th March 2020).
- Notwithstanding, the applicant submitted a materials schedule in order to retrospectively discharge the conditions which was registered 12th March (two days before permission expiration).
- Subsequently, when the details were reviewed, they could not be discharged as a condition ‘precedent’ had been breached and the permission had lapsed when the application was reviewed. In line with the principles set out in relevant case law *Whitley (FG Whitley & Sons v SoS for Wales and Clwyd CC 24/3/92)*, *Hart Aggregates Ltd (R (Hart Aggregates Ltd) v Hartlepool BC [2005])* and a recent case which determined a ‘materials condition’ could be a condition ‘precedent’ (*Meisels and Anor v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1987 (Admin)*); the condition could not be discharged and foundations dug could not be relied upon to have ‘saved’ the permission. The planning permission was not considered to have been implemented lawfully and has now expired.
- As a result, a decision to refuse discharge of the condition was issued on 16th April 2020.

1.5 **Proposal**

On advice of the council, in order to address the apparent breach of planning control (sub-dividing the plot and digging foundations), allow for the development to continue lawfully and for the materials to be assessed and agreed, the applicant has submitted a partially retrospective planning application in order to regularise the issues. As such, the scheme is essentially a re-submission of the previously approved scheme and is identical, seeking planning permission for the erection of a single 3-bedroom dwelling.

- 1.6 Reduced copies of the plans accompanying the application is attached as **Appendix 2** to this report. A Transport Note, including Parking Beat Survey is attached at **Appendix 3**. All the plans and representations can be viewed on the council’s website www.southoxon.gov.uk under the planning application reference number.

2.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

- 2.1 A summary of comments are below. Full comments can be found at www.southoxon.gov.uk under the relevant application reference:

Cholsey Parish Council	Objection <ul style="list-style-type: none"> - Insufficient parking for new 3-bedroom dwelling - Insufficient retained parking for retained 3-bedroom dwelling (no.6) - Contrary to CNP policy H6
Ward Cllr Simpson	Objection and ‘Call in’ <ul style="list-style-type: none"> - Contrary to CNP policy H6 - Will cause issues for turning and potentially compromise highway safety
County Archaeological Services	No objection <ul style="list-style-type: none"> - An archaeological watching brief on the adjacent property did not reveal any archaeological features or finds. I therefore consider that there are no archaeological constraints to this scheme. I therefore have no further comments to make on this application
Drainage Engineer	No objections, subject to conditions <ul style="list-style-type: none"> - Foul water and surface water drainage schemes required
Highways Liaison Officer	No objections, subject to conditions <ul style="list-style-type: none"> - The proposal is unlikely to have a significant adverse impact on the highway network - Condition to secure and retain parking area
Neighbours (2) Objections	No.7 Kentwood Close <ul style="list-style-type: none"> - Not enough parking - No.5 has no parking and parks in the street - Street is congested - Impact on light and privacy of 7A - There should be 4 spaces allocated - Impact on emergency vehicles accessing the road
Neighbours (1) No strong views	No.6 Kentwood Close <ul style="list-style-type: none"> - I sold the land to application in February 2020 - My parking space should be retained, and access not blocked. - Protective fencing should be put around the foundations. - Wrong address on application form as plot has been sub-divided.

3.0 **RELEVANT PLANNING HISTORY**

3.1 [P20/S0947/DIS](#) - Other Outcome (16/04/2020)

Discharge of condition 3 - schedule of materials on application ref. P17/S0043/FUL

Erection of a three-bedroom detached dwelling.

[P17/S0043/FUL](#) - Approved (15/03/2017)

Erection of a three-bedroom detached dwelling. As supported by additional block plan received on 27 February 2017.

4.0 **ENVIRONMENTAL IMPACT ASSESSMENT**

4.1 Not Applicable – Not EIA Schedule 1 or 2 development.

5.0 **POLICY & GUIDANCE**

5.1 **Development Plan Policies**

South Oxfordshire Core Strategy 2012 (SOCS) Policies:

- CS1 - Presumption in favour of sustainable development
- CSS1 - The Overall Strategy
- CSEN3 - Historic environment
- CSI1 - Infrastructure provision
- CSM1 - Transport
- CSQ2 - Sustainable design and construction
- CSQ3 - Design
- CSR1 - Housing in villages

South Oxfordshire Local Plan 2011 (SOLP) Policies:

- CON11 - Protection of archaeological remains
- D1 - Principles of good design
- D10 - Waste Management
- D2 - Safe and secure parking for vehicles and cycles
- D3 - Outdoor amenity area
- D4 - Reasonable level of privacy for occupiers
- EP1 - Adverse affect on people and environment
- EP6 - Sustainable drainage
- G2 - Protect district from adverse development
- H4 - Housing on sites within the built up areas of towns and villages
- T1 - Safe, convenient and adequate highway network for all users
- T2 - Unloading, turning and parking for all highway users

Neighbourhood Plan

On 11th April 2019 the Council resolved to make the Cholsey Neighbourhood Plan (CNP). It is now part of the council's development plan. The most relevant policies are;

- CNP STRAT 1 – The Overall strategy
- CNP H2 – Infill Housing
- CNP H5 – Context and scale of housing
- CNP H7 – Parking
- CNP I3 – Drainage
- CNP T1 – Transport

5.2 **South Oxfordshire Emerging Local Plan 2034 Policies**

The council is currently progressing the emerging local plan through the examination stage. The plan currently carries limited weight. Relevant policies include;

- DES1E - Delivering high quality development
- DES2E - Enhancing local character
- DES5E - Outdoor amenity space
- DES6E - Residential amenity
- DES9E - Promoting sustainable design
- ENV6E - Historic environment
- ENV9E - Archaeology and scheduled monuments
- EP4E - Flood risk
- H16E - Infill development
- H1E - Delivering new homes
- H4E - Housing in the larger villages

STRAT1E - The overall strategy

TRANS5E - Consideration of development proposals

5.3 Supplementary Planning Guidance/Documents

South Oxfordshire Design Guide 2016 (SODG 2016)

5.4 National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

5.5 Other Relevant Legislation

Human Rights Act 1998

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equality Act 2010

In determining this planning application the Council has regard to its equalities obligations including its obligations under Section 149 of the Equality Act 2010.

6.0 PLANNING CONSIDERATIONS

6.1 The relevant planning considerations are the following:

- **Current policy and the principle of development**
- **Design and character**
- **Residential amenity**
- **Access and Parking**
- **The Environment**
- **Other material planning considerations**
 - Archaeology
 - Fall-back position and enforcement
 - Community Infrastructure Levy
 - Conditions

6.2 Current policy and the principle of development

Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires where regard is to be had to the Development Plan, applications for planning permission must be determined in accordance with the Plan unless material considerations indicate otherwise. In this case, the most relevant parts of the council's development plan comprise the South Oxfordshire Core Strategy 2012 (SOCS), South Oxfordshire Local Plan 2011 (SOLP) and the Cholsey Neighbourhood Plan 2019 (CNP).

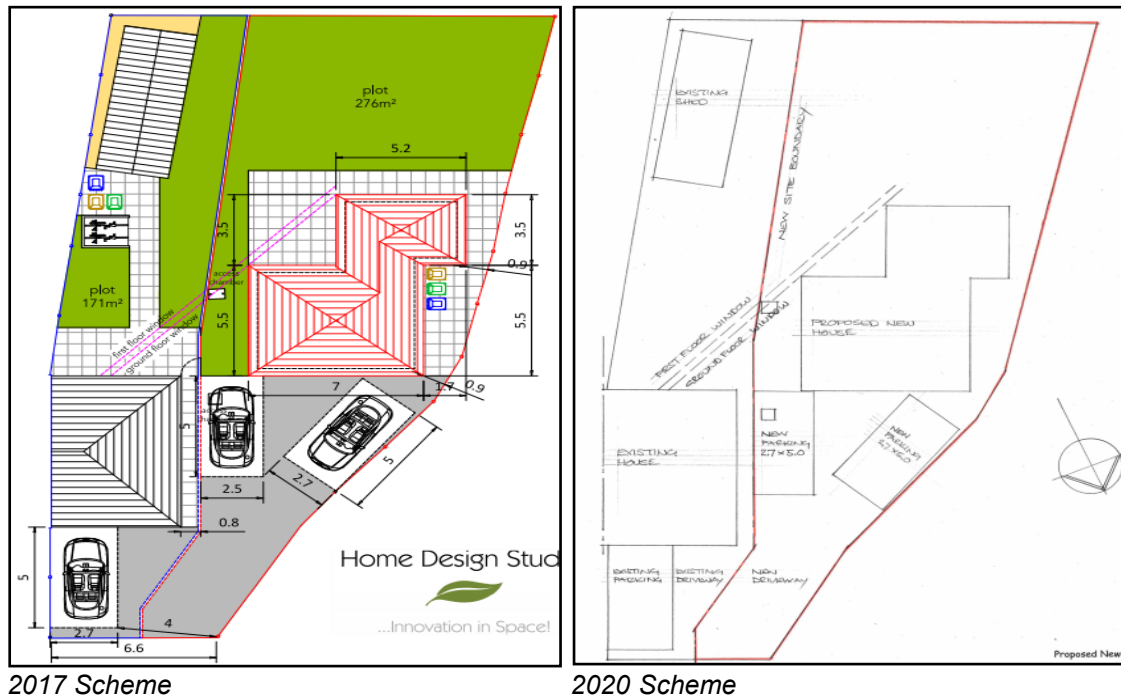
6.3 It is also of note that this application is partially retrospective, to resolve a breach of planning control as detailed earlier in the report. As noted in the PPG (Paragraph: 012 Reference ID: 17b-012-20140306), a local planning authority can invite a retrospective application if necessary. In circumstances where the local planning authority consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application (section 73A of the Town and Country Planning Act 1990) without delay. However, this must be considered in the normal way.

6.4 In terms of the principle of development, the overall spatial strategy set out in SOCS Policy CSS1 establishes a settlement hierarchy where the amount and location of new

development is related to the availability of facilities and services in order to achieve a sustainable pattern of development. It states that outside the district's towns and villages, any change will need to relate to very specific needs such as those of the agricultural industry or enhancement of the environment. More specific to Cholsey, the villages strategy set out in CNP policy STRAT 1 details the plan (amongst a range of matters) is to support a locally appropriate level of housing growth in the village, to create a compact village form and to use land efficiently.

- 6.5 SOCS policy CSR1 relates to housing strategy within the district's villages, based on the settlement hierarchy. It seeks to manage new unplanned housing commensurate to the size of the settlement. Cholsey is one of the Districts 'Larger' settlements. Both SOCS policy CSR1 and CNP policy H2 support housing on 'infill' plots. 'Infill' is defined as, "*the filling of a small gap in an otherwise built-up frontage or on other sites within settlements where the site is closely surrounded by buildings*". Having regard to this policy context, in your officer's view, the plot is closely surrounded by other dwellings and within the villages built up-area boundary. As such, the development accords with the mentioned policies, constituting an infill scheme and establishes the principle acceptability of a new house on the plot. This suite of spatial strategy and housing policies for growth in the district's larger villages are considered consistent and up-to-date with the Framework.
- 6.6 Whilst acceptable in principle, the scheme also must also be acceptable detail. SOLP policy H4, CNP Policy H2 and H5 collectively set out detailed criteria to be considered. Broadly, these cover matters such as ensuring there is no adverse impact in terms of design; character; important open space of public value; the highway; environmental or ecological value; an important public view is not harmed, for example. These detailed criteria, amongst other material considerations will be covered where relevant in the further considerations below.
- 6.7 **Design and character**
SOCS policy CSQ3 seeks to ensure that all new development is of a high quality and inclusive design, responds positively to its site and surroundings; and is of a scale, type and density appropriate to the site and its setting. SOLP policy D1 further supports good design principles. CNP policy H5 requires that new housing schemes must provide good quality, well designed homes and provide an attractive environment maintaining Cholsey's distinctiveness.
- 6.8 As mentioned, the site is part of a relatively densely populated part of the village, when it was expanded through a collection housing in the 1950's. It is not located in the villages historic core, thus the houses in the vicinity do not have overtly locally distinctive architectural features. They have a relatively generic simple form, mostly in semi-detached pairs and two storeys in height. They have basic facing brickwork and concrete tiled roofs. They are typical of a 1950's housing scheme. Some houses have been altered and extended over the years and three new houses have been built in the corners of the cul-de-sac at 7a, 11a and 10 Kentwood Close (prior to 2017). As a result, the built form in the street scene comprises a general mix of buildings.
- 6.9 The proposed dwelling, whilst it has been re-drawn by a different architect, is virtually identical to the previously approved 2017 scheme (other than some non-material internal and external tweaks (figure 1 below). It has the same footprint, height and scale which is considered commensurate to the scale and character of other dwellings in the vicinity. The surrounding properties in Kentwood Close measure approximately 4.9m high to the eaves and generally around 7.2m to the ridge (such as 7a). The eaves height of the proposed dwelling is 4.95m and the ridge height is 7.2m. Your officers therefore consider that the height of the proposed dwelling would not be inappropriate.

Figure 1.



- 6.10 It is a simple design, with roof pitches that are similar to the surrounding the buildings. To accommodate the third bedroom and in order to work with the shape of the plot, a rear wing extends to the south. This is set down at a lower ridge height which helps to break up the overall massing of the building. The property would be set back from the head of Kentwood Close. There would be glimpsed views from Papist Way and Station Road, however, it would be read in conjunction with the surrounding development and as already discussed, the design and scale of the proposed development is considered to be acceptable and appropriate given the established character of the area. No important views would be compromised.
- 6.11 In terms of the external materials which should have been discharged before development commenced on the original scheme, a materials schedule has been submitted with this application. The roof proposed to be finished in a Marley Modern Pan Tile (Antique Brown) and elevations in an Atherstone Dace Brick. Both these materials and their colour palette are relatively standard material choices and in keeping with the other buildings in the street (red brick and grey/brown traditional roof tiles).
- 6.12 Overall, it is considered the scale and design of the dwelling accords with the relevant development plan policies and is in keeping the established character of the site and surrounding area.
- 6.13 **Residential amenity**
 SOLP Policy D4 details that new dwellings should be laid out to secure a reasonable level of privacy for occupants and the amenities and privacy of neighbouring properties should not be harmed. SOLP policy D3 details that all new dwellings shall provide adequate outdoor garden and amenity space for occupants. Private outdoor sitting areas should not be overlooked by adjacent outdoor sitting areas. CNP policy H5 requires all new dwellings to ensure a neighbourly environment and ensure residents wellbeing.

- 6.14 In terms of future occupation of the proposed dwelling, the dwelling includes a private rear garden, well in excess of the 100m² advised for dwellings with 3 bedrooms in the SODG. As such, it is considered the proposed dwelling will afford a good standard of comfort and outdoor space. There are also no side elevation windows in the east elevation of no.7 and any new windows inserted in this elevation under permitted development rights would need to be obscured.
- 6.15 With regard to the impact on neighbouring properties, the neighbouring dwellings most likely to be impacted are no.6 (adjacent to the east), the newly built no.7a (immediately adjacent to the west) and no.7 located to the north-west (*figure.2 below*). Properties to the rear of the site in Papist Way are unlikely to be materially affected by the development, given the distance between the buildings is some 27m (over the 25m back to back distance between habitable rooms advised in the SODG) and there gardens have approximately 19m of depth.

Figure 2.



Key

1. Site (6a)
2. No.7a
3. No. 7
4. No 6

- 6.16 The proposed dwelling would be located wholly to the front of no.7a. The distance between the two properties would be 5.7m and the rear facing proposed first floor master bedroom window would permit only obscured views of the blank side elevation of no.7a due to the position of the dwellings relative to one another. Only a single window serving a bathroom window is proposed on the west elevation, which can be secured to be obscured by condition. As such, it is unlikely their privacy will be impacted. In terms of no.7, the first-floor bedrooms will partially face and look over towards no.7's side elevation, front and side garden, but with a separation of around

10m and sharp oblique sightlines, this is unlikely to have a significant impact on occupants privacy .

- 6.17 Whilst the dwelling is likely to have some impact on the amount of light reaching the front of No.7a and its driveway, this would only be during morning hours when the sun is in the east and would not affect its south facing garden. In addition, the approved plans for No.7a show that the closest window to the application site serves the sitting room which forms part of an open plan kitchen/dining and living area that is served by a number of openings within the rear (south facing) elevation of the dwelling. I consider therefore that the proposed development would not have a materially adverse impact on the amenity of the occupants of No.7A Kentwood Close by reason of reducing light to that property. No objections have been raised by occupants of this property
- 6.18 In terms of its relationship with no.6, the proposed dwelling would sit to the side and wholly to the rear of 6 Kentwood Close. It would be located at a minimum distance of 1.5 metres from the shared boundary whilst the rear two storey wing would be set away from the shared boundary by just over 5 metres. The submitted plans demonstrate that the new dwelling will not infringe on the 45-degree horizontal plane from the centrally located bedroom window. Having regard to this and to the south facing orientation of the rear elevation of No.6, the proposed development is unlikely to have a significant impact on the neighbour's light. The property also has a long garden that extends beyond the proposed dwelling so the occupants of no.6 would still benefit from some afternoon/evening sun in the southernmost part of their garden. No upper floor openings are proposed within the side facing elevation of the new dwelling and any windows added at a later date would need to comply with permitted development conditions which seek to protect neighbouring amenity (as mentioned above). No objections in terms of impact on material planning issues have been raised by the owner or occupants of no.6.
- 6.19 Overall, having regard to the above development plan policy, I consider the development will not result in any significant adverse impact on the living conditions of future occupants or neighbouring properties, thus accords with the relevant development plan policies in this context.
- 6.20 **The highway, access and Parking**
SOLP policy T1 and T2 require that all new development provides safe and convenient access to highway and sufficient turning and parking areas where required. SOLP Appendix 5, and policy D2 of the SOLP, set out the car parking standards for residential developments, and require 2 spaces for new dwellings with 4+ bedrooms. SOLP policy D2 requires development to incorporate adequate, safe and secure parking for vehicles and cycles. CNP policy T1 states that new developments should connect to, and where possible, improve Cholsey's walking and cycling network. CNP policy H6 then sets out the villages parking standards for new residential development.
- 6.21 In context of the proposal, these matters have been the primary objectionable issue raised through the consultation process and the main reason the scheme has been referred to the committee. In particular, parking and congestion in the close has been raised as a concern. It is noted whilst most existing dwellings in the street have two off-street parking spaces on driveways, any on-street parking is limited to parking along the northern kerb, half on the pavement. There is a footpath in the north-west of the turning head which leads to a block of garages (which it is understood are available for rent for residents), but overall parking in this area is tight, by virtue of the narrow 1950's road layout.

- 6.22 This is not a new issue and was also raised when the original permission was considered in 2017. A parking beat survey was completed in 2017 (re-submitted with this application), which demonstrated the proposed off-street parking allocation, coupled with some on-street parking was sufficient to accommodate the scheme. It was considered two parking spaces for each dwelling was acceptable (three being off-street). The Transport Note has been re-submitted and is considered to still be relevant as the intensity of use of the street has likely not materially changed (i.e. the additional dwellings in the street which have all been built were all approved pre-2017). This note advised that the parking beat surveys undertaken on the adjacent local network on three separate days in autumn to cover early morning and afternoon periods when most people would be home. The results of the surveys demonstrated that even when the parking stress is greatest, i.e. with 78% of the potential 9 legal spaces occupied, Kentwood Close has capacity to accommodate a further 2 vehicles. During your officers two visits, albeit during the day when parking stress will be lower, it was noted potential for 4 vehicles to park in the close. This seems consistent with the survey which found 4 to 5 spaces available during the day.
- 6.23 Whilst the circumstances in considering all other matters has not really changed since the original scheme was approved, in the interim period, the council has now adopted the CNP as part of its development plan, which has set a higher allocation of parking spaces for new residential developments, than OCC's normal standards (*figure 3.below*).

Figure 3. CNP policy H6

Policy CNP H6

152. New housing proposals should meet the requirements in Oxfordshire County Council's Residential Parking Provision Policy²⁷ except that parking should be provided in new residential developments, including extensions to existing homes, in accordance with the following minimum standards:

	1 allocated and remainder unallocated all off-road	2 allocated and remainder unallocated all off-road
1 Bed	1.4	
2 Bed		2.3
3 Bed		2.4
3/4 Bed		2.5
4 Bed		3.0
5 Bed +		3.5

153. On sites of 10 or more homes parking spaces must be provided at least in accordance with the above requirements, on smaller sites and/or where parking is being provided on the house site the requirement should be rounded up to a whole number

- 6.24 In terms of the proposed parking allocation, as was previously approved, two off-street spaces are provided for the new 3-bedroom dwelling, leaving one off-street space for no.6, a 2-bedroom dwelling. There has been some indication from neighbours that no.6 has been advertised for rent as a 3-bedroom dwelling, but planning records do not

suggest this. The owner of no.6 has also confirmed it is a 2-bedroom dwelling, with a study which is not used as a bedroom as it is too small to fit a bed in. In any event, as will be explored further below, this is not necessarily a salient issue in terms of the development plan policy context, as whether the existing no.6 dwelling has 2 or 3 bedrooms, it is likely only reasonable to expect it to provide 2 spaces.

- 6.25 CNP policy H6 details what off-street parking *should* be required for new dwellings. Whilst the standard for schemes with 10 or more units *must* be in accordance with these requirements, smaller schemes *should* be rounded up to a whole number. The operative words of this policy ‘*should*’ and ‘*must*’ are seen through most CNP policies wording, presumably to give some flexibility where the context requires. Through this language, Policy H6 indicates that new dwellings should meet the above minimum requirements and should be rounded up to a whole number, but not that they ‘*must*’ (like they would need to for major schemes). This implied flexibility is logical given smaller developments, such as ‘infill’ schemes’ like this proposal are likely to come forward on smaller plots (by definition) where standards may not be able to be fully met or site context, location or other material considerations mean a balance may need to be struck. The policy does not specify requirements for existing dwellings, where plots are subdivided as was originally the case here.
- 6.26 Saved SOLP policies D2 , T2 and H4 together set out parking standards and highway considerations for development, which could reasonably include ensuring an existing dwelling retains sufficient parking in line with standards (which would be 2 spaces for two and three bedroom dwellings, having regard to OCC stipulations). Having regard to this policy context it is evident the proposed dwelling does not strictly accord with the CNP targets. Only 2 spaces are provided where the CNP indicates 2.4 spaces should be provided and rounded up to 3. The existing dwelling retains 1 space, where it should likely accommodate 2, not in accordance with development plan. This means the scheme is currently under providing 2 off-street spaces and 1 less space than previously approved due to the change in standards. This context is summarised in *Table 1* below;

Table 1: Development Plan policy parking requirements

	CNP no.6 requirement	SOLP no.6 requirement	CNP no.6a requirement	SOLP no.6a requirement	Total off-street parking requirement	Total parking proposed /approved
2020 Scheme	N/A	2	3	N/A	5	3 off-street 2 on-street
2017 Scheme	N/A	2	N/A	2	4	3 off-street 1 on street

- 6.27 The County Council Highway Officer has been consulted. They have not raised issues with the proposed parking arrangements or issues that may result from the scheme in terms of highway safety or the highway network. They have noted that the given the small scale nature of the scheme, there is unlikely to be any significant adverse impact to the highway network and vehicle speeds in the road are likely to be low, thus not compromising highway safety.
- 6.28 Having regard to the above policy context and evidence, it is clear the street is relatively cramped in transport terms and existing parking arrangements are not ideal. However,

the existing restricted level of on street parking is a long stranding issue owed to the design of the wider 1950's estate and does not necessarily mean it cannot be utilised where there is capacity. However, it is evident the CNP is striving for better off-street parking solutions for new development coming forward, but with some flexibility for smaller sites where necessary. As such, in this particular case, there are other material considerations which need to be weighed against the apparent conflict with the plan, in the final balance

- 6.29 As mentioned, the language in the policy offers some flexibility to the standards for new smaller sites. Plainly, if the standards are followed explicitly, both a new single 4-bedroom dwelling, 3-bedroom dwelling and new 2-bedroom dwelling would all require 3-off-street spaces. Given these are sizes of dwelling most likely to come forward on 'infill' plots and only 9.3% of the population in Cholsey own 3 cars, it seems unlikely that in reality, a family living in 2 bedroom or 3 bedroom properties are going to require 3 spaces for parking vehicles. Further to this, whilst not ideal, it is possible that the driveway serving the new dwelling could accommodate a third vehicle if necessary, but would require to be moved if other vehicles would like to exit. But given the cul-de-sac and nature of the of low vehicle speeds, this is unlikely to be an unsafe manoeuvre. Notwithstanding, the scheme would still mean that an off-street space is lost from no.6. However, the parking beat survey demonstrates that amongst the off-street and on-street parking, the site and street can accommodate all 5 spaces required (potentially offering 6 spaces if the driveway is informally used). There is no doubt that the scheme brings the street to its capacity to be developed (where further parking may be required or lost), but this is the same situation as was considered in 2017. These are all material considerations which need to be considered in the final balance.
- 6.30 Finally, the NPPF at paragraph 108 sets out how applications should be considered in transport terms. Developments should promote sustainable transport modes, be safe and have suitable access for all users. Significant impacts to the highway network should be mitigated to an acceptable degree. Importantly, paragraph 109 makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Again, the thrust of this guidance gives flexibility in transport terms, unless there is a severe safety or network capacity issue (which sets a very high bar). The thrust of this context is contained in the CNP, particularly in the plans overall strategy policy CNP STRAT1 which seeks to minimise the adverse effects of car travel by making walking, cycling and public transport more attractive for local journeys and CNP policy H5 which seeks to minimise traffic through the village. In this context, the site is only 400m walk from Cholsey railway station, which has services to Didcot, Reading and Oxford. There are also bus services in easy reach, thus it is considered the site is in a very sustainable location. There will always be balance between recognising car travel in rural areas is required, but in sustainable locations, where public transport to even more accessible, providing more car parking than reasonably necessary could encourage a level of car use which is at odds with seeking development to promote sustainable transport options. As such, your officers consider a more proportionate approach to parking for this particular site, in this particular circumstances and context, would likely be two spaces for each dwelling (they only 'should' be rounded up), as was approved. This would seem to balance the well-located sustainability of the site; with the need for vehicle spaces commensurate to the size of the unit and need to encourage sustainable transport options in line with CNP and NPPF. Again, these are all matters to weigh in the final planning balance.

6.31 **The environment**

SOLP policy EP1 seeks to prevent pollution from all sources including drainage into the ground, which may in turn have an impact on the living conditions of future occupants, neighbours or other living organisms. SOLP policy EP6 seeks for surface water to be managed sustainably. CNP policy I3 details that new developments should not exacerbate surface water and must effectively deal with sewerage. SOLP policy D10 requires adequate waste management to be provided on site for new development

6.32 In terms of the developments drainage systems, the site is located in Flood Zone 1 (thus not liable to fluvial sources of flooding) and not in an area of surface water risk. The council's Drainage Officer has been consulted, who suggested conditions to secure both foul and surface water drainage schemes. However, the applicant has submitted evidence that the standard provisions of linking to the existing sewerage network and SUD's compliant soakaways for surface water have already been agreed with the council under Building Regulations (building regulations conditional approval B20.0466/S). The PPG is clear that if conditions are not 'necessary' or other primary legislation controls what they are seeking, they would not meet the '6' tests. As such, as drainage matters have already been agreed under other primary regularity legislation, it is not necessary in planning terms to secure any further information in this context. Given the partially retrospective nature of this application and no evidence to suggest drainage will be an issue on this site, this is the most proportionate response and the development is considered to accord with the relevant policies.

6.33 In context of dealing with householder waste, bins would be provided and there is adequate room space to present bins for collection, as is the existing arrangement with the other dwellings. The scheme accords with the relevant policy.

6.34 **Other material planning considerations**

There are several other material planning considerations to consider;

Archaeology

While the site is within an area of archaeological interest, the county council's archaeologist has been consulted and has not raised any concerns. It is not envisaged the development is likely to impact on any potential deposits after a watching brief on the adjacent site did not reveal any findings (no.7a). As such, it is considered no further work is required in this regard.

6.35 *Fall-back position and enforcement*

Given the circumstances that have resulted in the submission of this application described earlier in the report, it is important to consider whether there is any fall-back position and circumstances that may arise, should planning permission be refused.

6.36 As your officers were of the view that the original planning permission had not been lawfully implemented (as development commenced before discharging a pre-commencement condition), it is considered there is no 'fall-back' position and the development could not continue lawfully. If planning permission is refused, the council would need to consider whether it would be expedient to take any further action against the unauthorised development (which to date has comprised digging the foundations of the approved 2017 scheme).

6.37 *Community Infrastructure Levy (CIL)*

As new residential floor space is created, the development will be subject to a CIL. The new floorspace equates to 91m² and the relevant demand notice for the payment will be issued with the decision notice. Self-build relief is not applicable to retrospective development and it is understood even if the original application had been implemented lawfully, a self-build exception was not applied for correctly.

6.38 *Conditions*

No pre-commencement conditions are required or further information to be submitted. Conditions to securing the proposed parking spaces and access are recommended, but the material previously required to be discharged have been submitted with the application and deemed acceptable. No time limit is required as the proposed development has already commenced.

7.0 **PLANNING BALANCE & CONCLUSION**

- 7.1 The applicant unfortunately did not follow the correct procedures to lawfully implement their 2017 planning permission, as they failed to discharge a condition requiring materials of the development to be agreed before they commenced development. This essentially invalidated their permission and they were advised by the council to re-submit the scheme so that details could be agreed and to regularise the breach of planning control. It seems they bought the site with only a very short period of time before the permission expired and started the works before realising there was an outstanding matter of materials to discharge. Clearly, the onus is on the landowner to check they are lawfully commencing development, in line with their permissions, but the applicant has followed your officers' advice and worked with the council to resolve issues.
- 7.2 Notwithstanding, the PPG is clear that retrospective planning permission must be determined in the ordinary way. As already mentioned, this means applications must be determined in accordance with the development plan unless material considerations indicate otherwise. However, this does not necessarily mean that a scheme which does not accord with every policy in the Plan must be refused but may be weighed against other material considerations and the Plan as a whole, which may indicate a scheme should be approved. This process of planning judgment and balance is what underpins England's unique 'discretionary' planning system.
- 7.3 In this context, as outlined in the considerations above, it is your officers' view that the development is of an appropriate design that will not have an adverse impact on the character of the site or local area. The dwelling is proportionally scaled, of a simple design and provides sufficient private outdoor space for occupants. The development will also have no adverse impact on the environment and only a limited impact on the living conditions of neighbours. However, it is clear that there is some conflict with the plan, in particular CNP policy H6 which seeks where possible greater off-street allocated parking for 3-bedroom units than the council's saved policies and county council standards. This is a material change from when the original scheme was approved and the main point of contention between the applicant and local interested parties.
- 7.4 Against this conflict, there are other material considerations to weigh in the planning balance, as outlined in the report. The relevant CNP policy clearly offers some flexibility to these standards, so far as it indicates single unit schemes 'should' meet the standards and 'should' be rounded up, not that they 'must'. As such, having regard to location of the site being in close proximity to public transport nodes; the fact the site does have some on-street capacity for 2 additional parking spaces (accommodating a

3rd space for the new unit and a 2nd space of the existing unit); the CNP's overall strategy to reduce traffic and vehicle use in the village and only a small proportion of residents seeking 3-bedroom houses likely to own 3-cars (particularly if wanting to live close to the rail station); there is unlikely to be a significant harm resultant from taking a flexible approach to this site-specific circumstance. There have also been no objections in terms safety or network capacity from the county councils' highways officers and the NPPF makes is clear development should only be refused on transport terms if these matters are impacted to a *severe* degree. Weighing all these issues against the conflict with the development plan, you officers consider these other material considerations outweigh the conflict. Whilst the existing parking conditions are not ideal and in most cases, seeking to secure additional off-street parking will likely be appropriate in Cholsey, in this particular case and site specific circumstance indicates there will still be sufficient parking for the development proposed and no planning harm will be caused from approving the scheme. As a result, your officers recommend that on balance, the application is approved.

8.0 **RECOMMENDATION**

8.1 **Planning Permission granted subject to the following conditions;**

1 Approved plans

That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, [Inserted upon issue of decision], except as controlled or modified by conditions of this permission.

2 Materials as on plan

The exterior of the development hereby permitted shall only be constructed in the materials specified on the plans and materials schedule (dated 9th March 2020) hereby approved.

3 Parking & Manoeuvring Areas Retained

Prior to the first occupation of the development hereby approved, the parking and turning areas shall be provided in accordance with the approved plan PD04 and shall be constructed, laid out, surfaced, drained and completed to be compliant with sustainable drainage (SuDS) principles, and shall be retained unobstructed except for the parking of vehicles associated with the development at all times.

4 Obscure glazing

The first floor window in the west side elevation of the dwelling hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight, prior to the first occupation of the accommodation and it shall be retained as such thereafter.

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