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| APPLICATION NO. | P24/S0925/S73 |
| SITE PROPOSAL | <p>Sandy Acre Woodperry Road Beckley, OX3 9UY Variation of condition 14 of P20/S4112/FUL - to vary the point at which the existing bungalow is required to be demolished to be based upon completion of the second, rather than first, home permitted on site.</p> <p>Planning application for (phased) erection of two dwellinghouses with gardens, parking, and ancillary works in replacement of existing bungalow (alternative proposal to permitted house and garage P20/S1555/FUL).</p> |
| AMENDMENTS | Email from agent clarifying the trigger word is <i>completion</i> and not <i>occupation</i> . |
| APPLICANT | Mr and Mrs Smith |
| APPLICATION TYPE | SECTION 73 |
| PARISH | BECKLEY |
| WARD MEMBER(S) | Tim Bearder |
| OFFICER | Paul Bowers |

1.0 INTRODUCTION

1.1 This report sets out the officer's recommendation that planning permission should be granted having regard to the material planning considerations and the development plan. The application is referred to Planning Committee because the recommendation conflicts with the views of the Parish Council who object to the application.

1.2 The application site originally contained a detached brick bungalow and outbuildings in a large site located off Woodperry Road; the bungalow and outbuildings are located at the northern edge of the site. The site sits in an elevated position above the historic core of the village and the historic Roman Way adjoins the site to the west. Open fields adjoin the site to the east.

The site lies outside but adjacent to the Beckley Conservation Area which bounds the site to the west and the north.

The site lies within the Oxford Green Belt. A plan identifying the site can be found at **Appendix 2**.

1.3 Background –

Planning permission was granted under application reference P19/S2951/FUL for the demolition of the original bungalow and the erection of a replacement dwelling house with detached garage, parking, amenity space, landscaping, and associated works. This included a new siting for the dwelling and garage to the south of the original bungalow and outbuildings.

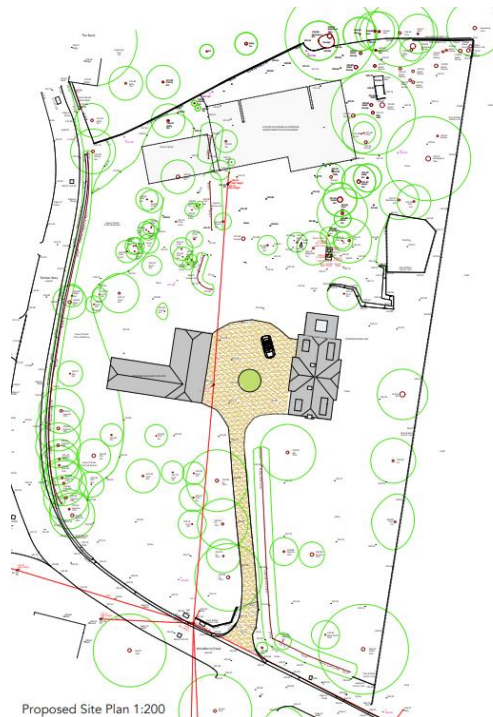
The permission was subject to a number of conditions which included the following;

That the building specified in the application to be demolished shall be demolished within 3 months of the first occupation of the dwelling hereby permitted.

Reason: To ensure that the development does not result in the addition of a second dwelling on the site to protect the Green Belt from inappropriate development and harm to its openness in accordance with Policy CSEN2 of the South Oxfordshire Core Strategy 2027 and Policy GB4 of the South Oxfordshire Local Plan 2011.

This condition was applied in a modified form to the subsequent permissions set out below.

1.4 The approved layout was as follows;

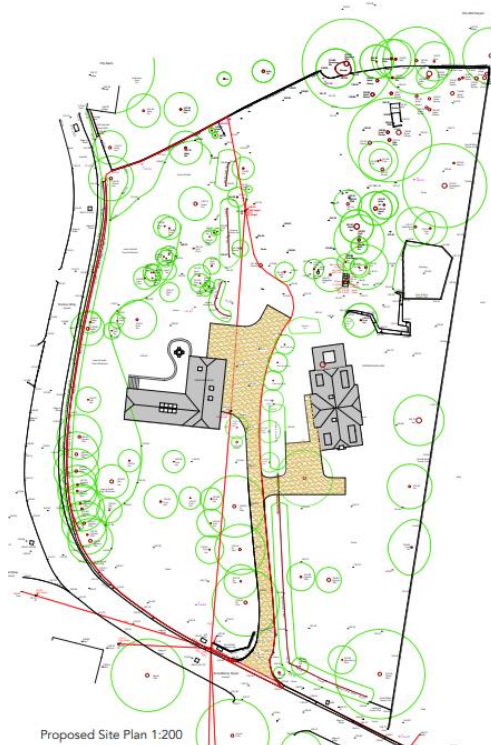


1.5 Planning permission was then granted for a Section 73 application under application reference P20/S1555/FUL to vary the approved plans by re-orientating the dwelling, changes to the detailing of the dwelling and the addition of a basement to the approved garage building to the west.



1.6 Subsequent to that, planning permission was granted for an alternative scheme to create two dwellings on the site under application reference P20/S4112/FUL. The dwelling as approved under the Section 73 application was essentially replicated and a second dwelling created within the form and scale of the permitted garage building and approved basement.

1.7 The approved layout was as follows;



- 1.8 A non-material amendment was allowed under application reference P21/S1479/NM. This added a planning condition to show how the development would be phased.

The development has commenced and the dwelling on the east of the site is nearing completion.

- 1.9 Planning permission was refused under planning application P22/S2193/FUL to retain the original bungalow for the following reason;

The retention of the bungalow, which is required to be demolished by conditions attached to planning permissions for the erection of dwellings on the site, would consolidate the built up appearance of the site eroding its openness and character and the contribution it makes to the wider openness of the Green Belt contrary to Policy STRAT6 of the South Oxfordshire Local Plan 2035 and the NPPF.

- 1.10 The council's decision was the subject of an appeal. The appeal was dismissed and a copy of the appeal decision can be found at **Appendix 3**. The appeal was dismissed for a technical reason on the type of application that was made and not on the merits of the case.

2.0 **PROPOSAL**

- 2.1 This application is made under Section 73 of the Town and County Planning Act 1990 and seeks to vary the wording of Condition 14 of Planning permission P20/S4112/FUL to allow for the existing bungalow to be demolished upon the completion of the second dwelling. For the original condition wording see paragraph 1.3 above.

3.0 **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

3.1 **Publicity**

The application was advertised as affecting the setting of the conservation area by way of a site notice and an advert in the local press along with neighbour consultation letters.

3.2 **Statutory Consultee responses**

Beckley Parish Council – Object to the application for the following main planning related reasons;

- Supports the reasons for the condition being imposed in the first place.
- The buildings are larger than the one they replace.
- The council previously refused permission to retain the bungalow and the appeal was dismissed.
- Retention of the bungalow would be inappropriate.
- The existing bungalow overlooks the conservation area.
- The site is not within the settlement.

Neighbour Responses –

5 x letters of objection for the following reasons;

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- The applicant has previously sought to not comply with the original condition.
- Amending the condition would break the spirit of the condition.
- Seeking to sew confusion with two suggested triggers of ‘completion’ and ‘occupation’ of the second home in their supporting letter.
- Increased traffic.
- Impact on drainage.

3 x letter of no objection.

3 x letter of support.

4.0 RELEVANT PLANNING HISTORY

| Application Number | Description of development | Decision and date |
|-----------------------------------|--|--|
| 4.1 P22/S2193/FUL | Retention of existing bungalow and alterations to layout and driveway to provide parking and garden areas with associated works. | Refused (14/10/2022) - Appeal dismissed (06/12/2023) |
| P21/S0823/DIS | Discharge of conditions 3 Schedule of Materials, 4 Surface water drainage works, 5 Foul drainage works, 6 Landscaping Scheme (trees and shrubs only) on planning application P20/S4112/FUL | Details Agreed (12/05/2021) |
| P21/S1479/NM | Planning application for (phased) erection of two dwelling houses with gardens, parking, and ancillary works in replacement of existing bungalow. Non-Material amendment to application P20/S4112/FUL to insert phasing plan to schedule of approved documents, and make changes to fenestration and roof. | Approved (20/04/2021) |
| P20/S4112/FUL | Planning application for (phased) erection of two dwelling houses with gardens, parking, and ancillary works in replacement of existing bungalow (alternative proposal to permitted house and garage P20/S1555/FUL). | Approved (23/12/2020) |
| P20/S2667/PEM | Planning application for (phased) erection of two dwelling houses with gardens, parking, and ancillary works in replacement of existing bungalow (alternative proposal to permitted house and garage P20/S1555/FUL). Erection of two dwellings in place of permitted house and garage | Advice provided (10/09/2020) |

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| P20/S1555/FUL | Variation of conditions 2 (approved plans - minor material amendment to permitted development) and 3 (amendment to wording of condition to allow works to proceed in accordance with submitted archaeological written scheme of investigation without need for submission of further details on application ref. P19/S2951/FUL (as amended by revised Archaeological Written Scheme of Investigation received 26 May 2020) | Approved (30/06/2020) |
| P19/S2951/FUL | Demolition of existing dwellinghouse and erection of replacement dwellinghouse to provide family home with detached garage with parking, amenity space, landscaping, and associated works (As amplified by Great Crested Newt Habitat Assessment December 2019). | Approved (05/02/2020) |
| P19/S0604/LDP | Erection of single storey side and rear extensions to dwellinghouse and erection of detached garage. | Approved (16/04/2019) |
| P18/S2776/FUL | Erection of replacement dwellinghouse to provide four bedroom family home with detached garage. (As amended by drawings accompanying cover letter from agent dated 19 November 2018). | Refused (17/12/2018) |

5.0 ENVIRONMENTAL IMPACT ASSESSMENT

5.1 N/A

6.0 POLICY & GUIDANCE

6.1 National Planning Policy Framework and Planning Practice Guidance

6.2 Development Plan Policies

South Oxfordshire Local Plan 2035 (SOLP) Policies:

- DES1 - Delivering High Quality Development
- DES2 - Enhancing Local Character
- DES5 - Outdoor Amenity Space
- DES6 - Residential Amenity
- ENV1 - Landscape and Countryside
- ENV6 - Historic Environment
- ENV8 - Conservation Areas
- H1 - Delivering New Homes
- H16 - Backland and Infill Development and Redevelopment
- H8 - Housing in the Smaller Villages
- STRAT1 - The Overall Strategy
- STRAT6 - Green Belt
- TRANS5 - Consideration of Development Proposals

6.3 Emerging Joint Local Plan 2041

The Council is preparing a Joint Local Plan covering South Oxfordshire and Vale of White Horse, which when adopted will replace the existing local plan. Currently at the Regulation 18 stage, the Joint Local Plan Preferred Options January 2024 has limited weight when making planning decisions. The starting point for decision taking will remain the policies in the current adopted plan.

6.4 Neighbourhood Plan

Beckley and Stowood Parish Council submitted their draft neighbourhood plan to South Oxfordshire District Council in February 2023. A consultation was undertaken on the draft neighbourhood plan and supporting documents in March 2023.

The Independent Examiner of the draft NP advised the District Council that a package of modifications was required to the Plan to ensure that it met the basic conditions.

The district council ran a consultation on these recommended modifications up to Thursday, 29 February 2024. The received comments have now been submitted to the independent examiner. The examiner's role is to make recommendations on the draft plan, and ultimately recommend if the plan should proceed to referendum.

At this stage of development the draft plan carries limited weight in decision making.

6.5 Supplementary Planning Guidance/Documents

Joint South and Vale Design Guide (JSVDG)

7.0 PLANNING CONSIDERATIONS

7.1 When assessing section 73 applications the Council can only consider the original condition and the reasons for applying the condition; new conditions can be attached but only in so far as they apply to the original condition. If the Council decides that planning permission should be granted subject to differing proposed conditions, planning permission should be granted. If permission is to be granted subject to the same conditions as those to which the previous permission was granted, they should refuse the application.

7.2 Paragraph 015 of the NPPG notes where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. Furthermore, to assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. A section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

7.3 It is not intended to go through all the planning issues that were assessed in connection with the principle of development on the site. It has been determined that the original bungalow cannot be retained and has to be

demolished. The issue for this application is when the bungalow will be demolished and if the trigger point is sufficiently precise and unambiguous to ensure that the demolition is achieved.

Given the context of the change, the condition being varied and the reason for the application, it is only necessary to consider the impact of the change on the character and appearance of the site and surrounding area and the impact on neighbouring properties.

7.4 The main issues to consider in relation to this proposal are;

- **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.**
- **Impact from the changes in the wording of the condition.**
- **Conditions.**

7.5 **Whether there has been any material change in site circumstances or planning policy in the intervening time between the grant of planning permission and now.**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise.

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.

In the case of this application, the most relevant parts of the Development Plan are the South Oxfordshire Local Plan 2035 (SOLP) The development plan has not changed since the recent planning permission from 2022. The development (subject to the demolition of the original dwelling) continues to accord with the development plan overall.

The development has commenced but the overall circumstances of the site and the surrounding area has not materially changed since the original grant of planning permission.

7.6 **Impact from the changes in the wording of the condition.**

The condition to in its original form reads as follows;

That the building specified in the application to be demolished shall be demolished within 3 months of the first occupation of either of the two dwellings hereby permitted.

Reason: To ensure that the development does not result in the addition of a third dwelling on the site to protect and to protect the Green Belt from inappropriate development and harm to its openness and to ensure

adequate levels of parking and amenity in accordance with policies STRAT6, DES5 and TRANS5 of the South Oxfordshire Local Plan 2035.

- 7.7 The reason for the condition can be broken down in to three parts;
1. To prevent the existing dwelling being retained as the two new dwellings do not occupy the same footprint and result in three dwellings occupying the site.
 2. To protect the Green Belt from inappropriate development and harm to the openness.
 3. To ensure that sufficient amenity and parking space is provided as the approved plans do not denote areas of garden and parking for the existing building thereby not demonstrating that it would have sufficient space for the two dwellings.

- 7.8 The wording of the condition in its amended form as recommended by officers would be as follows;

That the building specified in the application to be demolished shall be demolished within 1 month of the completion or occupation of the second dwelling hereby permitted, whichever is soonest.

Reason: To ensure that the development does not result in the addition of a third dwelling on the site to protect and to protect the Green Belt from inappropriate development and harm to its openness and to ensure adequate levels of parking and amenity in accordance with policies STRAT6, DES5 and TRANS5 of the South Oxfordshire Local Plan 2035.

- 7.9 The change to the requirements of the condition relate to the trigger point for securing the demolition of the original dwelling only. A change from the occupation of the first dwelling to the completion of the second dwelling is proposed in the application.

I consider it necessary to also include the word 'occupation' in addition to the new word 'completion'

Once the building is complete or occupied the period of time for the demolition of the existing bungalow is reduced from three months to one month.

- 7.10 In terms of how the changes impact the reason for imposing the condition in the first place this is broken down below;

- 7.11 *To prevent the existing dwelling being retained as the two new dwellings do not occupy the same footprint and result in three dwellings occupying the site.*

The change to the condition would still result in the demolition of the existing bungalow. The condition will still ensure that there are only two dwellings on the site.

- 7.12 *To protect the Green Belt from inappropriate development and a harm to the openness.*

During the course of any development there will potentially be a greater impact on openness from equipment and engineering works to facilitate a development. This is an accepted consequence for a short period of time during the lifetime of a development as whole. In this case the existing dwelling would be retained longer than originally permitted by the condition. However, once the second building is complete or occupied the period of time to demolish the bungalow is reduced from the previous period of three months, to one month. This ensures that the overlap for having three dwellings on the site is very limited.

I consider it necessary to add the word ‘occupation’ to the amended condition. Had the word ‘completion’ been added as the trigger in isolation then it would have created the potential outcome whereby the building may not be complete but could be occupied. The building may then never become fully completed and the trigger to demolish the bungalow would never be engaged creating the situation where three dwellings would be on the site contrary to the purpose of the condition. In addition, had it been limited to ‘occupation’ this could have potentially led to the situation where the second building was complete but not lived in. Thereby prolonging the period of time where there were three dwellings on the site.

As proposed this revised condition ensures the existing bungalow is demolished in a timely manner and the impact on the Green Belt will be the same as previously permitted.

- 7.13 *To ensure that sufficient amenity and parking was provided as the approved plans did not denote areas of garden and parking for the existing building thereby not demonstrating that it would have sufficient space in the subdivision of the site should it be retained.*

This element of the original condition was included to cover what could happen if the bungalow were retained and not required to be demolished as the plans did not cater for that eventuality. The proposed changes to the wording of the condition has no impact on this element of the reason for applying the condition as it will still be overcome by the requirement to remove the original bungalow.

- 7.14 **Conditions.**

Section 73 applications require that the original conditions of the planning permission be replicated on the new permission where they remain relevant.

A number of conditions of the original permission have been addressed through the submission of details in discharge of condition applications such as those that relate to materials and drainage. The wording of those conditions has been altered to ensure the development is carried out in accordance with the approved details.

In addition, since the original permission was granted a non-material amendment application has imposed a new planning condition relating to the phasing of the development. This condition is also included within this recommendation.

8.0 **Other Relevant Legislation**

8.1 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.

8.2 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.

8.3 Crime and Disorder Act 1998

In considering this application, due regard has been given to the likely effect of the proposal on the need to reduce crime and disorder in accordance with Section 17 of the Crime and Disorder Act 1998. In reaching a recommendation, officers consider that the proposal will/will not undermine crime prevention or the promotion of community safety.

9.0 **PLANNING BALANCE AND CONCLUSION**

9.1 The change to the condition that requires the demolition of the bungalow to occur at the occupation or completion of the second dwelling, whichever occurs soonest, rather than within three months of the occupation of the first dwelling, does not materially affect the reason the condition was applied in the first place. The revised condition achieves the same goal of the building being demolished and only two dwellings being on the site following the completion of the development.

The change to the condition ensures that the development as a whole remains compliant with the development plan.

9.2 Abbreviated versions of the recommended conditions are listed below and shown in full in **Appendix 1**.

10.0 **RECOMMENDATION**

10.1 **That Planning Permission is granted subject to the following conditions;**

10.2 **1 : Approved plans ***

2 : Materials in accordance with approved DIS application

3 : Surface water drainage works in accordance with approved DIS application

4 : Foul drainage works in accordance with approved DIS application

5 : Landscaping Scheme in accordance with approved DIS application

6 : Improvements to access

7 : Reduce Gravel Spread onto Highway

8 : Provide parking & Manoeuvring Areas

9 : Gates/carriageway

10 : Withdrawal of P.D. (Part 1 Class A and Class E) - no extensions/outbuildings etc

11 : Wildlife Protection (mitigation as approved)

12 : Archaeological Watching Brief

13 : Demolish specified buildings before occupation or completion *

14 : Phasing as approved

Officer Paul Bowers

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Appendix 1

Recommended Conditions (full text):

| Sequence | Description | Details |
|----------|---|--|
| 1 | Approved plans | <p>That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans approved under planning application P20/S4112/FUL;</p> <p>1013-12, 1080-3J, 1080-8D, 1080-2F, 1080-9D, LOC001, 1080-1S, 1013-1 and OP001,</p> <p>except as controlled or modified by conditions of this permission.</p> <p>Reason: To secure the proper planning of the area in accordance with Development Plan policies.</p> |
| 2 | Materials in accordance with approved DIS application | <p>That, unless otherwise agreed in writing by the local planning authority the development shall be built in accordance with the materials approved in letter dated 12 May 2021 under application reference P21/S0823/DIS.</p> <p>Reason: In the interests of the visual appearance of the development in accordance with Policies DES1 and DES2 Cof the South Oxfordshire Local Plan 2035.</p> |
| 3 | Surface water drainage works in accordance with approved DIS | <p>That, unless otherwise agreed in writing by the local planning authority the development shall be built in accordance with the surface water drainage scheme approved in letter dated 12 May 2021 under application reference P21/S0823/DIS.</p> <p>Reason: To prevent pollution and flooding in accordance with Policy EP4 of the South Oxfordshire Local Plan 2035.</p> |
| 4 | Foul drainage works in accordance with approved DIS application | <p>That, unless otherwise agreed in writing by the local planning authority the development shall be built in accordance with the foul water drainage scheme approved in letter dated 12 May 2021 under application reference P21/S0823/DIS.</p> |

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| | | Reason: To prevent pollution in accordance with Policy INF4 of the South Oxfordshire Local Plan 2035. |
| 5 | Landscaping Scheme in accordance with approved DIS application | <p>That, unless otherwise agreed in writing by the local planning authority the development shall be built in accordance with the landscaping scheme approved in letter dated 12 May 2021 under application reference P21/S0823/DIS.</p> <p>Reason: To help to assimilate the development into its surroundings in accordance with Policy ENV1 of the South Oxfordshire Local Plan 2035.</p> |
| 6 | Improve existing vehicular access | <p>Prior to the first occupation of the development, the existing means of access onto Woodperry Road shall be improved and laid out and constructed strictly in accordance with the local highway authority's specifications and all ancillary works specified shall be undertaken.</p> <p>Reason: In the interest of highway safety in accordance with Policy TRANS5 of the South Oxfordshire Local Plan 2035.</p> |
| 7 | Reduce Gravel Spread onto Highway | <p>Prior to the first occupation of the development hereby permitted, concrete or blacktop should be laid in a 1 metre strip from the boundary of the driveway with the road to the start of the gravelled area.</p> <p>Reason: To reduce gravel being carried onto the highway in the interests of highway safety and convenience in accordance with Policy TRANS5 of the South Oxfordshire Local Plan 2035.</p> |
| 8 | Provide parking & Manoeuvring Areas | <p>Prior to the first occupation of the development hereby approved, the parking and turning areas shall be provided in accordance with the approved plan 1080-1S 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.</p> <p>Reason: In the interests of highway safety and in accordance with Policy TRANS5 of the South Oxfordshire Local Plan 2035.</p> |

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| 9 | Gates/carriage way | <p>Any gates provided shall be set back a minimum of 5.0 metres from the edge of the carriageway and shall open inwards into the site.</p> <p>Reason: To ensure that vehicles may wait clear of the highway while the gates are opened or closed in the interests of highway safety in accordance with Policy TRANS5 of the South Oxfordshire Local Plan 2035.</p> |
| 10 | Withdrawal of P.D. (Part 1 Class A and Class E) | <p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), the enlargement, improvement or other alteration of any dwellinghouse or outbuildings as described in Schedule 2, Part 1, Classes A and E of the Order shall not be undertaken without obtaining planning permission from the Local Planning Authority.</p> <p>Reason: To protect and to protect the Green Belt from inappropriate development and harm to its openness in accordance with Policy STRAT6 of the South Oxfordshire Local Plan 2035.</p> |
| 11 | Wildlife Protection (mitigation as approved) | <p>The development hereby permitted shall be implemented strictly in accordance with the reasonable avoidance measures and habitat enhancement recommendations made in sections 5.2 and 5.3 of the Great Crested Newt Habitat Assessment report (Windrush Ecology Ltd, December 2019).</p> <p>Reason: To minimise the impacts of development on biodiversity and to provide a net gain for biodiversity in accordance with Policy ENV3 of the South Oxfordshire Local Plan 2035.</p> |
| 12 | Archaeological Watching Brief | <p>The watching brief shall be carried out by a professional archaeological organisation in accordance with the submitted Written Scheme of Investigation (TVAS reference Ref: 20e22wb). Once the watching brief has been completed its findings shall be reported to the Local Planning Authority, as agreed in the Written Scheme of Investigation, including all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within</p> |

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| | | <p>two years of the completion of the archaeological fieldwork.</p> <p>Reason: To secure the protection of and proper provision for any archaeological remains in accordance with Policy ENV9 of the South Oxfordshire Local Plan 2035.</p> |
| 13 | Demolish specified buildings before occupation * | <p>That the building specified in the application to be demolished shall be demolished within 1 month of the completion or occupation of the second dwelling hereby permitted, whichever occurs soonest.</p> <p>Reason: To ensure that the development does not result in the addition of a third dwelling on the site to protect and to protect the Green Belt from inappropriate development and harm to its openness and to ensure adequate levels of parking and amenity in accordance with policies STRAT6, DES5 and TRANS5 of the South Oxfordshire Local Plan 2035.</p> |
| 14 | Phasing plan | <p>The development shall be carried out in accordance with the approved phasing contained within the phasing plan reference 1080-1S received 20 April 2021 unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: To ensure a comprehensive and viable development in accordance with Policies STRAT1 and INF1 of the adopted South Oxfordshire Local Plan 2035.</p> |