

ITEM 7

APPLICATION NO.	12/01650/FULLS
APPLICATION TYPE	FULL APPLICATION - SOUTH
REGISTERED	15.08.2012
APPLICANT	Mr A Bajar
SITE	Land Between Leycroft And 5 Chilworth Old Village, Church Lane, Chilworth Old Village, CHILWORTH
PROPOSAL	Proposal for a 3 bedroom cottage with associated parking. *Exception Site *
AMENDMENTS	Revised Arboricultural information
CASE OFFICER	Mrs Georgina Wright

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

1.1 This application is referred to Planning Control Committee (PCC) because the Southern Area Planning Committee (SAPC) was minded to refuse planning permission with additional reasons for refusal to those suggested by Officers contrary to Officer's advice and the reasons given could result in an application for costs against the Council if the applicant should appeal the decision.

1.2 A copy of the Officer's report and update sheet to the 9 October 2012 SAPC, from which the application was deferred, are attached as **Appendix A** and **Appendix B** respectively.

2.0 ADDITIONAL CONSULTATIONS:

2.1 **Ecology** – No Objection subject to informatives.

- Thank you for forwarding me the reptile survey for this site (Ecosupport, October 2012).
- I am satisfied that this has been carried out to an appropriate methodology.
- The survey found no evidence of reptiles using the site and consequently I have no outstanding concerns over any potential adverse impacts to biodiversity from this proposal.
- I would however recommend, in line with the comments in the report, that the applicant is made aware of the legal protection afforded nesting birds.

3.0 PLANNING CONSIDERATIONS:

3.1 The main planning considerations are the principle of the development; its impact on the character of the area; impact on surrounding heritage assets; design; impact on neighbouring amenities; trees; highway safety; and ecology. All of which are discussed in detail in the SAPC report.

Considerations Of SAPC

- 3.2 Members of SAPC resolved to refuse planning permission for an additional reason, in addition to those reasons suggested within the agenda report, contrary to the Officer recommendation. SAPC considered that the proposed development of this site with a dwelling would neither preserve nor enhance the character or appearance of the conservation area and would have a negative impact on the adjoining listed buildings, spaces and views through the village and as such added this as an additional reason for refusal accordingly.

Events Since SAPC

- 3.3 Officers originally recommended refusal of the scheme because there was insufficient ecological information about the potential impact for reptiles at the site and there was no completed legal agreement in place to secure the unit as an affordable housing unit or the necessary contributions towards public open space and highway improvements. Since the application was reported to SAPC, additional information has been received from the applicant regarding ecology at the site. The Council's Ecologist has confirmed that this has overcome the concerns regarding the site and they are no longer raising any objection to the proposals. The Council's Legal Team has also started to draw up the necessary legal agreement which will address the concerns re securing the affordable unit and financial contributions. The Officer's reasons for refusal that are listed in the SAPC report are therefore, now, considered to be resolved and it is recommended that the development is approved accordingly.

- 3.4 The only issue that is therefore outstanding is that identified by Members of the SAPC regarding the implications of the proposed development on the heritage assets surrounding the site. However discussion was also had at SAPC about the principle of the proposals and whether the development would satisfy the affordable housing exception site policy and should be accepted in principle. These issues will therefore be discussed in more detail below.

Principle

- 3.5 Whilst it is acknowledged that the site is situated in the countryside as defined by the TVBLP, where as per policy SET03 (Development in the Countryside) there is a presumption against new development, this proposed dwelling has been put forward as an exception to this general rule within the provisions of TVBLP policy ESN05 (Rural Exception Affordable Housing). It is within this policy context that the proposed new dwelling must therefore be assessed.

Affordable Housing Exception

- 3.6 TVBLP policy ESN05 (Rural Exception Affordable Housing) allows, in rural areas within or adjoining settlements, the development of affordable housing as an exception to the general SET03 (Development in the Countryside) policy of restraint. This is subject to there being an identified unmet need within the Parish for such accommodation by households unable to afford open market housing where a member of each household (rather than each member of a household as is suggested by third parties) is either ordinarily resident in the parish, previously lived there or has strong family connections; they need to live in the village (or its immediate surroundings) by virtue of their employment; or there is a demonstrable need to live in the village either to support or be supported by a family member. If this need can be identified, the policy permits such development in perpetuity despite the site being in designated countryside.
- 3.7 In 2008, a Supplementary Planning Document relating to Affordable Housing was adopted by the Local Planning Authority (Affordable Housing Supplementary Planning Document (March 2008) (SPD)). This forms a material consideration for the application, however this document also states that the guidance should be read in conjunction with any adopted or saved development plan policies, such as TVBLP policy ESN05 (Rural Exception Affordable Housing). This document reiterates the guidance set out in TVBLP policy ESN05 (Rural Exception Affordable Housing) and seeks to secure affordable housing where it is needed. It also ‘strongly recommends’ that pre application consultation is submitted for initial guidance on the suitability of the site but this is only recommended not a requirement.
- 3.8 Section 11 of the SPD, specifically relating to rural exception sites, states that there has to be an identified need for such housing in the Parish and such an exception should be provided to meet a specific need of a rural area, not the needs arising from larger nearby towns and villages. It states that such exception sites are ‘likely’ to be within easy reach of facilities and public transport, and that any development should be designed to be in keeping with the character of the area. It also states that an assessment of other available suitable sites should accompany a planning application with full justification for why the application site was chosen in preference to others being identified. It also confirms that a S106 Agreement will be necessary in order to secure the affordable units in perpetuity.
- 3.9 Section 12 of the SPD further provides a process for parish council’s or local communities to bring forward such development. Whilst this process is encouraged, it seems to relate primarily to larger exception sites which are being brought forward by the Parish Council and aims to speed up the delivery process of such a scheme. It does not refer to singular one off sites being brought forward by private individuals although the primary policy context (ESN05 (Rural Exception Affordable Housing) does not exclude such proposals coming forward. Indeed elsewhere in the SPD (namely paragraph 4.3) it is specifically stated that such affordable housing being put forward and owned by private individuals are encouraged providing that it is being managed by a Registered Social Landlord (RSL) and it meets the other Affordable Housing criteria and definition of affordable housing.

- 3.10 In this instance the applicant, who is a private individual rather than a parish council or community group, has put forward a scheme for the development of the site with one dwelling as an affordable housing exception unit. It is proposed that the dwelling would be for rental purposes for someone on the housing waiting list, specifically related to the Chilworth area. Whilst there is no evidence that the applicant has undertaken any pre-application discussions with either TVBC or the Parish Council and have not done a site selection process, the Council's Housing Team has confirmed that there is an identified housing need in the Parish. On assessment of the site by Officers and Consultees (as outlined in the SAPC report), the site is considered to be suitable for the development proposed in all respects. Therefore whilst the 'suggested protocol' for bringing forward rural exception sites has not been met, the principle aim of national and local policy; the adopted SPD; and a corporate priority of the Council is to provide affordable housing where it is needed. This proposal would meet all of these aims. It is also considered that a reason for refusal based on the lack of any information being provided by the applicant, when TVBC can confirm that there is such a need and that the site is suitable for such a development; is unlikely to be successfully defended at an appeal. It is therefore considered that the principle of such a development on this site is acceptable.

Implications For The Heritage Assets

- 3.11 Development of the site with a market dwelling has been strongly resisted in the past, and successfully defended at appeal. However, this has been solely on the issue of principle rather than the potential implications for any of the surrounding Heritage Assets. Indeed during the consideration of the most recent appeal decision relating to a single market house on this site (ref: TVS.00645/8 which was dismissed in 1999), the Inspector confirmed that *'a new dwelling on this site must intrude in this open space thereby affecting the present pattern of buildings and open spaces in the centre of the village'*. However despite describing the proposed dwelling in that case as a *'2 storey building, which unlike Rose Cottage adjacent will have a visual dominance of wall over roof'*, and significantly higher eaves levels than *Rose Cottage (5 Chilworth Old Village)*, the Inspector considered that *'I do not consider that a building of this scale and massing would intrude to an extent that would alone justify a refusal of planning permission'*. It was also confirmed that *'the contribution of the space to the character and appearance of the area would be retained. I also consider that the detailed design of the building and the choice of materials would be acceptable in this location'*. It was also concluded that, whilst other fallback positions such as returning the site to garden or regenerating it as woodland would be likely to result in a greater enhancement, *'it would be difficult to protect views of Rose Cottage across the site from the south east over the long term'* and that overall *'the proposals would have no unacceptable adverse impact on the conservation area'*.
- 3.12 With regard the potential impact on the listed buildings in the vicinity, the Inspector also concluded that *'It would be taller than Rose Cottage, with different scale and proportions. Although the proposal would necessarily have a material impact on the setting of the nearest listed buildings and, to a lesser extent, on the group of listed buildings as a whole, I do not consider that this would alone justify a refusal of planning permission'*.

- 3.13 The current proposals involve a largely similarly designed and size of dwelling to that considered by the Inspector in 1999. It is however to only be 1½ storeys in height and is to have lower eaves. Its overall ridge and eaves lines are also to be lower than the neighbouring *Rose Cottage (5 Chilworth Old Village)* which is a Grade II listed building. It too is to be situated fairly centrally in the plot (a distance of 8 metres from the common south western boundary and presents a blank façade approximately 14 metres away from neighbouring facing elevations) and is to be dug down slightly into the site. It is also to be slightly set back from the front 'building line' created by *Rose Cottage*. The proposal presents a double frontage to the main road, rather than a gable end as previously proposed, which thereby results in the narrower, hipped gable end being presented to the neighbouring property.
- 3.14 Concern was raised at SAPC that the proposed dwelling was not of similar design, scale or materials comparative to the scheme that was previously considered by the Inspectorate. It was also suggested that given it is for affordable housing it would be of inferior detailing and materials. The previously proposed house was a thatch style dwelling of full two storey massing. It was set slightly further back on this site than the current proposals presenting a gable end to the road but had a square footprint. The proposed dwelling, whilst not thatched (which would in any event be impractical for an affordable housing unit because of its long term maintenance requirements), is of simplistic and attractive design. The materials are expressed as painted brick and clay tile roof tiles which can both be found elsewhere in the village; and the design involves chimneys, porches and shutters which all add to its attractive charm. It is not considered that the proposed materials or detailed design are in anyway inferior to other market houses found in the village and given the long term maintenance responsibilities of such houses, they are usually of a higher spec/standard than normal market dwellings. In addition, whilst the house is to sit further forward than the previously proposed house, it is to sit on the same building line as the immediate neighbour at *Rose Cottage*; is to be 1 ½ storeys in massing rather than a full 2 storey height; and is to have a lower ridge and eaves than the existing neighbour. The overall massing and design is therefore considered to be modest and respectful of the surrounding neighbours and heritage properties and will serve to enhance the character of the street scene by developing a currently overgrown parcel of scrub land.
- 3.15 Given all of the above it is considered that the proposals would serve to preserve the character of the conservation area and improve views through this part of the village and not adversely impact on the setting of the adjacent listed building. The Council's Conservation Officer has confirmed that the proposals differ very little from the previous scheme and have found the current proposals to equally adhere to the provisions of TVBLP policies ENV15 (Development in Conservation Areas) and ENV17 (Settings of Conservation Areas & Listed Buildings). Therefore, in light of both the Inspector's previous decision in this regard and the Council's Conservation Officer's comments it is considered that a reason for refusal on these issues is not warranted and could not be sustained.

Legal Agreement

- 3.16 As is outlined above, the Officer recommendation previously was that the scheme should be refused as a result of the lack of a completed legal agreement to secure the unit as an affordable housing unit and the necessary contributions towards a public open space deficit and necessary highway improvements. The submitted unilateral agreement was considered to be deficient for this purpose and as such the proposals were not acceptable. However since SAPC the Council's Legal Team have commenced work on an acceptable S106 agreement. As the 8 week deadline for determining this application has now passed, the revised Officer recommendation of permission is subject to the legal agreement being completed before any permission is issued but no timeframe for this or alternative recommendation of refusal is proposed.

4.0 CONCLUSION

- 4.1 An affordable housing unit on this site is accepted in principle as an exception to the usual policy of restraint in this countryside location. The design, siting and massing of the proposed development is not considered to have a detrimental impact on the character of the area, conservation area, setting of the adjacent listed buildings, trees, neighbouring amenities or highway safety. Sufficient information has also now been submitted to confirm that the development will not have a significant or detrimental impact on UK and EU protected species. Therefore, and subject to an appropriately worded agreement to secure the necessary financial contributions and the unit as an affordable housing unit, the development is recommended for approval accordingly.

5.0 RECOMMENDATION OF SOUTHERN AREA PLANNING COMMITTEE

5.1 REFUSE for the following reasons:

- 1. The proposed development of the erection of a dwelling on this land would neither preserve or enhance the character or appearance of the conservation area and would result in harm and be unsympathetic to the adjoining buildings, spaces and views in the village and thereby be contrary to policy ENV 15 of the Test Valley Borough Local Plan (June 2006).**
- 2. The proposed development fails to make provision for contributions towards non-car modes of transport to encourage a reduction in the generation of road traffic which are necessary to make the development acceptable in planning terms. It is therefore considered to be contrary to Test Valley Borough Local Plan (June 2006) policy TRA04 (Financial Contributions to Transport Infrastructure) and the Test Valley Infrastructure and Developer Contributions Supplementary Planning Document (2009).**
- 3. The proposed development fails to make provision in the form of a contribution towards public open space provision as mitigation against an identified deficiency in the quality of existing public open space in the locality which is necessary to make the development acceptable in planning terms.**

It is therefore considered to be contrary to Test Valley Borough Local Plan (June 2006) Policy ESN22 (Public Recreational Open Space Provision) and the Test Valley Infrastructure and Developer Contributions Supplementary Planning Document (2009).

4. The proposed development fails to properly secure the proposed dwelling as an affordable housing unit of accommodation in perpetuity or ensure its proper management by a Registered Social Landlord. The proposals, if approved, would therefore represent an undesirable additional dwelling for which there is no overriding justification in an area of countryside beyond the limits of the defined settlement. The proposals are therefore considered to be contrary to the National Planning Policy Framework; Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside) and ESN05 (Rural Exception Affordable Housing); the Affordable Housing Supplementary Planning Document (2008); and the Chilworth Village Design Statement.

6.0 **RECOMMENDATION OF HEAD OF PLANNING AND BUILDING**

6.1 **DELEGATE** to the Head of Planning & Building Services for the applicant to enter into a legal agreement to be completed no later than Wednesday 5 December 2012 to secure financial contributions towards public open space and non-car modes of transport, then **PERMISSION** subject to:

1. The development hereby permitted shall be begun within three years from the date of this permission.
Reason: To comply with the provision of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. No development shall take place until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
Reason: To ensure the development has a satisfactory external appearance in the interest of visual amenities in accordance with Test Valley Borough Local Plan 2006 policy DES07.
3. Prior to the commencement of development the access shall be constructed with the visibility splays of 2m. x 33m. x 1m. to the west and 2m. x 25m. x 1m. to the east and maintained as such at all times. Within these visibility splays notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no obstacles, including walls, fences and vegetation, shall exceed the height of 1 metre above the level of the existing carriageway at any time.
Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.

- 4. Prior to the commencement of development full details of the layout for the parking and manoeuvring onsite of contractor's and delivery vehicles during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period.**

Reason: In the interest of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.
- 5. Any gates shall be set back at least 4.5m from the edge of the carriageway of the adjoining highway and the access shall be splayed at an angle of 45 degrees from this point to the edge of the highway for the west side of the access only.**

Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.
- 6. At least the first 4.5m of the access track measured from the nearside edge of the carriageway of the adjacent highway shall be surfaced in a non migratory material prior to the use of the access commencing and retained as such at all times.**

Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan 2006 policies TRA05 and TRA09.
- 7. The development hereby permitted shall not be occupied until space has been laid out for the parking and manoeuvring of vehicles to enable them to enter and leave the site in forward gear in accordance with the approved plan and this space shall be reserved for such purpose at all times.**

Reason: In the interests of highway safety in accordance with Test Valley Borough Local Plan (2006) policies TRA05, TRA09, TRA02.
- 8. No development shall take place on site until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. All site work shall be undertaken strictly in accordance with the requirements, specifications and timing detailed within the method statement. Specifically the method statement must:**

 - 1. Provide a schedule of trees to be retained within 15m of all structures hereby approved, including the required root protection areas as set out in British Standard 5837:2012 .**
 - 2. Provide a specification for such tree protective barriers which should be in accordance with the above standard.**
 - 3. Confirm timing of erection and dismantling of such tree protective barriers, which must in any case be erected prior to commencement of any site clearance or ground works, and be retained and maintained for the full duration of works until onset of final landscape work.**
 - 4. Provide a plan at 1:200 or better, detailing the location of such tree protective barriers, including annotation that such fencing shall remain in this position for the full duration of works.**
 - 5. Require a sign to be hung on such tree protective barriers, repeated as necessary, which clearly states 'Tree Root Protection Area, do not enter, do not move this barrier'.**

6. Provide a plan demonstrating that all trenching, excavation, soakaways, pipe and cable runs required by the development can be installed wholly outside the tree protection zones. Where the proposed driveway lies within calculated tree root protection areas (as defined at section 4.6 of British Standard 5837:2012) design details of the construction and surface specifications including plans and cross sections must be submitted to and agreed in writing with the Local Planning Authority. These details must be sufficient to demonstrate how the drive way is to be built without its construction or use impacting upon retained trees.
7. Specify the timing of construction of the driveway, which shall in any event be prior to any other site activity undertaken in conjunction with this consent.
8. Demonstrate that all proposed structures can be built without the construction process impacting upon the retained trees or required tree protection zones.
9. Demonstrate that all site works, mixing areas, storage compounds, site buildings and associated contractor parking areas remain wholly outside any tree protection zones and at a suitable separation to prevent damage to retained trees.
10. Provide a schedule of all tree felling and tree surgery works proposed, including confirmation of phasing of such work.

Reason: To prevent the loss during development of trees and natural features and to ensure so far as is practical that development progresses in accordance with current best practice in accordance with Test Valley Borough Local Plan (June 2006) Policy DES08.

9. The Tree protective measures installed onsite (in accordance with condition 8) shall be maintained and retained for the full duration of works. No activities, nor material storage, nor placement of site huts or other equipment what-so-ever shall take place within the barrier.

Reason: To ensure the avoidance of damage to existing trees and natural features during the construction phase in accordance with Test Valley Borough Local Plan policy (June 2006) DES08.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows in the proposal hereby permitted [other than those expressly authorised by this permission] shall be constructed.

Reason: In order that the Local Planning Authority can exercise control in the locality in the interest of the local amenities in accordance with Test Valley Borough Local Plan 2006 policy AME01.

11. Before the development hereby permitted is commenced details, including plans and cross sections, shall be submitted to and approved by the Local Planning Authority of the existing and proposed ground levels of the development and the boundaries of the site and the height of the ground floor slab and damp proof course in relation thereto.

Reason: To ensure satisfactory relationship between the new development and the adjacent buildings, amenity areas and trees in accordance with Test Valley Borough Local Plan 2006 policies AME01, AME02, DES06 (delete as appropriate).

Notes to applicant:

1. The following Government Guidance and policies in the Development Plan are relevant to this decision: The National Planning Policy Framework; the Wildlife and Countryside Act 1981; The Habitats and Species Regulations 2010; South East Plan (May 2009) policies CC1 (Sustainable Development); CC2 (Climate Change); CC3 (Resource Use); CC4 (Sustainable Design & Construction); CC6 (Sustainable Communities and Character of the Environment); CC7 (Infrastructure & Implementation); CC8 (Green Infrastructure); H1 (Regional Housing Provision 2006-2026); H2 (Managing Delivery of the Regional Housing Provision); H3 (Affordable Housing); H4 (Type and Size of New Housing); H5 (Housing Design & Density); T4 (Parking); NRM5 (Conservation & Improvement of Biodiversity); NRM 11 (Development Design for Energy Efficiency & Renewable Energy); SH1 (Core Policy); SH5 (Scale and Location of Housing Development 2006 – 2026) and SH8 (Environmental Sustainability); BE5 (Village Management); C5 (Managing the Urban – Rural Fringe); Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside); ENV01 (Biodiversity & Geological Conservation); ENV05 (Protected Species); ENV15 (Development in Conservation Areas); ENV17 (Settings of Conservation Areas & Listed Buildings); HAZ02 (Flooding); ESN03 (Housing Types, Density & Mix); ESN05 (Rural Exception Affordable Housing); ESN22 (Public Recreational Open Space Provision); TRA01 (Travelling Generating Development); TRA02 (Parking Standards); TRA04 (Financial Contributions to Transport Infrastructure); TRA05 (Safe Access); TRA06 (Safe Layouts); TRA09 (Impact on the Highway Network); DES01 (Landscape Character); DES05 (Layout and Siting); DES06 (Scale, Height & Massing); DES07 (Appearance, Details & Materials); DES08 (Trees & Hedgerows); DES09 (Wildlife & Amenity Features); DES10 (New Landscape Planting); AME01 (Privacy & Private Open Space); AME02 (Daylight & Sunlight); Chilworth Village Design Statement; Infrastructure SPD; and Affordable Housing SPD.

- 2. The development hereby permitted shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved in writing by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.**
 - 3. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning and Building Service.**
 - 4. Birds nests, when occupied or being built, receive legal protection under the *Wildlife and Countryside Act 1981* (as amended). It is highly advisable to undertake clearance of potential nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.**
 - 5. The various trees, over 75mm in trunk diameter as measured at 1.5m above ground level, standing on and adjacent to this site are protected by virtue of standing within the Chilworth Conservation Area. Damage to the trees is an offence under the Town and Country Planning Act 1990. Failure to comply with the tree protection conditions above is likely to result in damage to the trees. Tree damage may lead to the prosecution of those undertaking the work and to those causing or permitting the work.**
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APPENDIX A

Officer's Report to Southern Area Planning Committee – 9 October 2012

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AMENDMENTS	Revised Arboricultural information
CASE OFFICER	Mrs Georgina Wright

Background paper (Local Government Act 1972 Section 100D)

1.0 INTRODUCTION

1.1 This application is reported to SAPC in accordance with the Council's Officer/Member Code of Conduct.

2.0 SITE LOCATION AND DESCRIPTION

2.1 This 0.07 hectare site is situated in the countryside, as defined by the Test Valley Borough Local Plan (June 2006) (TVBLP) but is also situated fairly centrally within Chilworth Old Village which is also designated as a Conservation Area. It is surrounded on all sides by other residential properties and their associated amenity/parking/access provision. The dwellings to the west of the site (*5-7 Chilworth Old Village*) are Grade II listed buildings.

2.2 The site currently consists of disused scrub land that is overgrown and originally formed part of the garden serving *5 Chilworth Old Village*. It is framed to the south by Church Lane (the main road going through the village). The access driveway leading to *Windyridge* to the north from Church Lane runs along the eastern boundary of the site. The northern boundary (common with *Windyridge*) is defined by a mixed conifer/treed boundary whilst the common boundary with *5 Chilworth Old Village* is a mix of hedgerows and trees. Whilst the site is relatively flat, it is situated on higher ground to the main road. None of the trees on site are protected by virtue of Tree Preservation Order (TPO) although all trees on the site are automatically protected by virtue of being situated in a conservation area.

3.0 PROPOSAL

3.1 This is a full application proposing an affordable housing unit as an exception to the usual countryside restraint policies (namely TVBLP policy SET03 (Development in the Countryside).

The proposed dwelling is designed as a three bedroom, 1½ storey dwelling of traditional detailing and design. It is to be of clay tile roof with painted brick work construction. Access to the site is to be gained via a new access driveway immediately adjacent to the existing access driveway serving *Windyridge* to the rear, directly off Church Lane. Two surface parking spaces are proposed to serve the dwelling. The remainder of the plot is to be provided as front/side/rear garden. The submitted section plans identify that the dwelling is to be set down into the site and will be lower to its eaves and ridge line than the adjacent thatched cottage of *5 Chilworth Old Village*.

- 3.2 The application is accompanied by an Arboricultural Report; a Proposed development Statement which is a mix of a Design & Access Statement, Planning Statement, and justification for Affordable Housing in the Village; and A Unilateral Agreement. During the course of the application, a revised Arboricultural Report has also been submitted.

4.0 **HISTORY**

- 4.1 TVS.00645 Dwelling and garage. Refused – 11.04.1975.
- 4.2 TVS.00645/1 Outline: Erection of dwelling. Refused – 29.12.1980.
- 4.3 TVS.00645/2 Outline: Erection of dwelling. Refused – 16.04.1987.
- 4.4 TVS.00645/6 Erection of one three-bedroom dwelling. Refused – 27.06.1997.
- 4.5 TVS.00645/7 Erection of one three-bedroom dwelling. Refused – 27.10.1997. Appeal Dismissed – 03.06.1998.
- 4.6 TVS.00645/8 Erection of one 2-bedroom dwelling and formation of access. Refused – 23.03.1999. Appeal Dismissed – 18.08.1999.
- 4.7 This latter application was refused, and dismissed at appeal, for the following reason:
1. *The proposed development is contrary to the countryside policies of the Adopted Test Valley Borough Local Plan in that it would represent an undesirable additional dwelling for which there is no overriding justification in an area of countryside beyond the limits of the defined settlement.*
- 4.8 Other issues raised by third parties at the appeal, relating to impact on the character of the area and conservation area and setting of the nearby listed buildings were also considered by the Inspectorate, but were not considered to be issues that would warrant additional reasons for dismissing the appeal.

5.0 **CONSULTATIONS**

5.1 **Policy - Comment**

- The site is within the Countryside and therefore policy SET03 of the Local Plan 2006 applies.

- ESN05 (Rural Exception Affordable Housing) would also apply. The Council has adopted a Supplementary Planning Document on Affordable Housing (2008).
- ESN22 – A Public Open Space (POS) contribution would be sought for a net gain of 1 x 3 bed unit at 2.5ppd. Test Valley Audit (October 2008) shows a deficit for all four elements of POS in Chilworth.
- On the 10th November the Council agreed to publish for public consultation the draft Core Strategy and Development Management DPD and the Designation DPD. Public consultation has been undertaken from 6 January to 17 February 2012. At the present time the document, and its content, demonstrates the direction of travel of the borough council. However, the saved policies of the adopted local plan remain the statutory development plan and should be given greater weight unless material considerations indicate otherwise.
- Within the Designation DPD it is proposed that the application site would fall within the settlement boundary where the principle of development would be accepted.
- However, following the advice in NPPF Para 216 2nd bullet there are unresolved objections to both the principle of defining village envelopes around certain settlements within the borough and there are unresolved objections to the boundary at Chilworth. It is therefore considered that limited weight can be attached to the proposed settlement boundary and therefore the policies of the development plan remain.
- A contribution towards sustainable modes of transport may be required in line with policy TRA04 – this would be identified through a Highways consultation.
- Other pertinent policies within the Borough Local Plan 2006 should be taken into consideration, including those within the ENV/DES/AME/TRA/ESN chapters.

5.2 **Trees** – No Objections subject to conditions:

- Fresh details now more accurately reflect the trees here, specifically the large off site Oak – and the constraints they impose.
- Conflict remains between proposed drive and root protection area of the off site Oak tree.
- Submissions indicate use of a “cellular confinement system” within tree’s root protection area.
- The critical thing here is the level to which the drive, specifically the levels/depths to which any sub-base will need to be laid – critically this information is lacking.
- No information with regard to levels (existing or proposed) has been given nor any comment made with regard to the levels of the drive, required sub base depth etc, etc.
- The submitted plan indicates use of the cellular confinement system for only that part of the drive in conflict with the root protection area. This might be good in theory, depending upon levels, but in reality a drive with a break in construction type as shown is likely to be subject to differential movement and premature failure. In my experience such a feature is very unlikely to be built like this.

- The Arboricultural consultant has stated that the level of information supplied is in addition to what the LPA can reasonably expect for this type of site and scale of development. This not a particularly useful remark to have made.
- The level of detail required will always be the amount required in order to make an informed judgement of the impact of a proposal.
- The omission of levels data does little to aid the understanding of what is proposed here, how it is to be achieved or what impact it will have on the tree.
- That said, a drive in the location indicated should be feasible, however this will need to be tied down by condition and closely monitored in execution.
- Proposed tree protection elsewhere on site is appropriate and acceptable.

5.3 **Conservation** – No Objection subject to conditions:

- A Planning Inspector commented the following on the impact on the conservation area of a new dwelling on the site in an appeal decision dating from 1999 (TVS 0645/8): *‘Any new dwelling on the site must intrude into this open space thereby affecting the present pattern of buildings and open spaces in the centre of the village...in spite of these differences, I do not consider that a building of this scale and massing would intrude to an extent that would alone justify a refusal of planning permission’.*
‘Much of the contribution of the space to the character and appearance of the area would be retained. I also consider that the detailed design of the building and the choice of materials would be acceptable in this location’.
- It was concluded that the proposals would have no unacceptable adverse impact on the conservation area, the appearance of which would be preserved.
- The impact on the setting of the listed building was commented on as follows:
‘...It would be set back from the main frontage, thereby retained views across the site to Rose Cottage in the short-medium term... Although the proposal would necessarily have a material impact on the setting of the nearest listed building and, to a lesser extent, on a group of listed building as a whole, I do not consider that this would alone justify a refusal of planning permission... no unacceptable adverse impact on the setting of the nearby listed buildings.’
- The size and positioning of the proposed dwelling under TVS 0645/8 does not differ significantly from this proposal, although the proposed dwelling could have been positioned further back from the frontage.
- Therefore, those points raised by the Inspector remain relevant and need to be taken into account.
- To that end Conservation do not have an objection to the development of the site and the proposal adheres with Local Plan policy ENV 15 and ENV 17.

5.4 **Highways** – No Objection subject to conditions and financial contributions.

5.5 **Housing** – Support subject to Legal Agreement.

- I concur with the need for affordable homes in Chilworth, as currently there are 11 applicants registered on Hampshire Home Choice housing waiting list who have a local connection to Chilworth.
- The affordable dwelling should remain affordable in perpetuity, at an affordable price, for an eligible applicant with a strong local connection to the village, or failing this, an applicant who falls within the cascade mechanism outlined in the legal agreement.
- Allocations are made through Hampshire Home Choice, the choice based lettings system which is also the mechanism to hold applicants registered on Test Valley's housing waiting list.
- The Design and Access statement also states that 'The developer will provide a home for rental purposes to someone on the housing waiting list specifically related to the Chilworth area and set the rent at the local housing allowance amount for that period'.
- The proposal accords with 4.3 of the SPD in that a private developer is offering this house rather than an RSL.
- The SPD states clearly that 'an affordable social rented dwelling can be owned by a private developer'. However, the same paragraph then goes on to say 'provided it is being managed by an RSL (now known as RHP registered housing provider) or an accredited managing agent.
- Test Valley Borough Council are an active member of HARAH (Hampshire Alliance for Rural Affordable Housing) for all rural exception site affordable housing delivery. I recommend the applicant familiarize and understand the HARAH ten step guide to delivering rural affordable housing as it will be helpful and provides contact details for Hyde Housing and Rural Housing Enablers, who work closely with housing in Test Valley on delivery of affordable homes.
- Housing are pleased to offer support this application to provide a much needed affordable dwelling for the village of Chilworth.
- However, the applicant should understand that the management of this dwelling would be undertaken by an RHP or accredited agent and must adhere to the standards required of Registered Providers (which are legally defined) and are set out in the Regulatory Framework for Social Housing in England from March 2012.
- Furthermore, nominations for this dwelling would be required to come from Hampshire Home Choice housing waiting list and would be for applicants with a strong local connection to Chilworth or failing this, to applications with a local connection to surrounding villages as specified in a legal agreement.

5.6 **Legal** – Objection:

- I have had a preliminary look at the draft unilateral undertaking.
- The form of the undertaking is broadly satisfactory.
- Gaps for contributions etc obviously need to be filled in.
- However the affordable housing obligations as set out are not considered to be sufficient.

- There are no provisions for the involvement of a registered provider nor for securing nomination rights in favour of the Council.
- Also as an exception site the requirement for occupation by local people should be more firm, not just merely priority for Chilworth residents.
- The document would therefore need rewriting in this regard in order to satisfy the Council and secure the site as an affordable exception site.

5.7 **Ecologist – Objection:**

- I appreciate that the applicant has completed the Biodiversity Checklist, and this is welcomed.
- However, despite the smaller scale of the site, I am concerned over potential impacts to reptiles, which are legally protected under the Wildlife and Countryside Act 1981 (as amended) and are a material consideration in the planning process.
- The site would appear to comprise a roughly square plot of rough grassland and developing ruderal/scrub habitat. It is in a rural area, surrounded by large mature gardens and strong hedges / tree lines, suggesting good ecological links to the surroundings, which may also support reptiles.
- Circular 06/2006 identifies that applicants should not be required to provide information on protected species unless there is a reasonable likelihood that they will be present and affected by the proposed development.
- Given the habitat present at the site, it is considered that there is a reasonable likelihood that reptiles (most likely slow worms, but possibly grass snake and common lizard) would be present. Clearance of the site to construct the dwelling would have the potential to kill / injure these animals.
- I would therefore recommend that a formal reptile survey is carried out to established standards by a suitably qualified / experienced ecologist. This should be carried out to firstly establish whether they are present or not, and secondly to determine the likely population (if present).
- If they are present, then the report should set out a scheme to mitigate any identified impacts. The design of any mitigation is dependant on the species and numbers present – for example, it may be sufficient to ensure that there is sufficient habitat retained within the development (for example as a habitat strip along boundaries or in a more ‘rough / wildlife-oriented corner of the garden), or if a larger population is present it may be necessary to identify an off-site receptor site.
- For information, September and October are generally good times to survey for reptiles, but any later, and they will be hibernating and surveys then cannot start until next April.

5.8 **Additional comments made in response to third party comments:**

- It has been brought to my attention that there are a number of ponds in the area around the application site that are not marked on Ordnance Survey maps and thus I did not consider these during my initial response.

- Similarly, it would not have been possible for the applicant to readily know of the existence of such ponds when completing the Biodiversity Checklist.
- Developments that are close to ponds (up to 250 - 500m depending on intervening habitat etc) may adversely affect great crested newts (GCN), which are legally protected under EU law.
- While the development in the current application will not directly affect any ponds, GCN spend most of the year in terrestrial habitat such as woodland, hedges, rough grassland and scrub some distance from their breeding ponds, and the application site would appear to present good terrestrial habitat for GCN.
- There are two ponds on OS maps within 500m, but as they are on the far side of the A27 Botley Road, over 300m away and surrounded by good habitat, they were discounted during my initial assessment, it was considered it was unlikely that GCN would be present at the application site even if they were using these ponds as breeding sites.
- However, as it now appears that there are garden ponds closer to the application site and not separated by major roads, I would advise that the planning authority seeks further information about this from the applicant.
- As far as I understand it, the applicant has contracted an ecological consultant to undertake the reptile surveys that I highlighted in my initial response, which is welcomed. Therefore, I would also suggest that the applicant ensures that their ecologists consider impacts to GCN as well during this work.
- Formal GCN surveys of any ponds are not possible at this time of year as these can only be carried out in the spring when the newts are breeding in the ponds. However, prior to this, it is usual to carry out a 'Habitat Suitability Index' (HSI) assessment. This involves identifying any ponds within an area around the application site and assessing them against an established range of criteria (such as size, shading, presence of fish, water quality, macrophyte cover etc) to come up with a robust 'score'.
- Where ponds score an HSI of below a certain level then it would be considered that they are unlikely to support GCN and thus it may not be necessary for formal surveys to be carried out in the spring.
- While it may be difficult to identify nearby ponds (as they are not marked on maps), I would recommend that every effort is made to find these using aerial photos and on-the-ground investigation (e.g. looking at sites from public rights of way wherever possible).
- The applicant's report that details the findings of the reptile survey can therefore also include an initial assessment of the likelihood of the development affecting GCN. Reptile surveys generally need at least 7 visits, so it is likely that the reptile survey has not yet finished and thus it may well be possible for this additional requirement not to result in significant increases in time to the applicant.

6.0 **REPRESENTATIONS** Expired 02.10.2012

6.1 **Chilworth PC** – Objection:

- Local Planning Authorities are legally obliged to enhance and protect the setting and character of a conservation area.
- This house is to be purposefully built in line with the adjacent Grade II listed buildings but is to be of modern construction.
- Other modern dwellings that have been built in the village have been set well back from the road in order to preserve the setting of the older listed dwellings.
- The National Planning Policy Framework, paragraph 132 provides greater importance for the protection of conservation areas than even 10 years ago.
- New development should enhance not merely have a negative impact on the character of the conservation area.
- The land was once the garden of the adjacent cottage and therefore historically was designed to complement it.
- Local community want the land to return to its former use/form and are willing to obtain it.
- The proposed dwelling would dominate and distract from the cottages clustered around the heart of the village.
- The new development would impinge on the important view of the historic dwellings in the village.
- Application is contrary to SET03 (Development in the Countryside) as it involves development in the countryside for which there is no overriding need.
- The exception policies allow agricultural workers dwellings or affordable housing for those residents who can remain in the village where they were raised.
- The exception policies are not primarily to meet an affordable housing need in Test Valley.
- No such applications for affordable housing, single or otherwise, have been notified to the Parish Council.
- The main principle for such affordable housing is to retain existing facilities such as shops, public transport and schools of which Chilworth Old Village and Chilworth have none.
- There are lots of similar sites in the village for which this would set a precedent.
- To quote the previous inspector, approval of this scheme would make it more difficult for the Council to implement its countryside policies in the future.
- Affordable housing exception schemes need to be supported by clear evidence to demonstrate that there is an unmet need in the parish for accommodation for households unable to afford market housing where each member of the household has a strong family connection, a need to be employed close by, or to support/be supported by a close family member.
- The policy is clearly designed to provide small groups of homes to retain facilities.

- There are no people living in the village who have sought such a residence.
- It is inappropriate to apply ESN05 (Rural Exception Affordable Housing) which seeks to protect the countryside from this type of sporadic development.
- The adopted SPD suggests that an assessment of alternative site should be provided. This hasn't taken place and no consultation with the parish has occurred therefore the proposals are in breach of this guidance.
- The adjacent cottage has recently been sub divided to provide smaller, affordable, market housing.
- There are already 7 affordable homes in the village which are managed by a housing association.
- There are also several private properties which are rented out on a long term basis.
- There is already sufficient affordable and a variety of houses in this conservation area.
- There are already a large number of young families contributing to the vibrant community.
- Many sites have been identified in the SHLAA in more suitable, sustainable locations which will accommodate more appropriate and better located affordable housing.
- The application is accompanied by inaccurate, misleading and irrelevant information.
- The tree survey submitted is inaccurate.
- The biodiversity checklist contains misleading results.
- The Design & Access statement does not inform the application in the way it should and is devoid of detail on which a full assessment on the impact of the proposals can be made.

6.2 Letters – 16 letters of objection received from the residents of Leycroft; Rose Cottage; Autumn Leaves; High View; Ettiford; Buxey House; The Half House; Woodpeckers; Lavender Cottage; & 6, 7 & 8 Chilworth Old Village. The following comments made:

- Out of keeping with the rest of the village.
- Contrary to DES02 (Settlement Character) as it will affect the pattern of development and views in the village.
- Development of this site will inhibit the rural ambience of this part of the village
- A newly built two storey house would over power the landscape and mellow character of the village.
- Overdevelopment of the site.
- Design is not in keeping with others in the village.
- Houses are being built in the village with no consideration for the character of the village.
- Pastiche of a country cottage which would not sit well in the street. It will clearly be a new house trying to look old.
- A sky scraping 2 storey house is too much for this plot.
- The design is budget driven and unimaginative.

- Only consideration for local vernacular is height of eaves and painted brickwork.
- Too close to neighbouring properties spoiling their views.
- Cause overlooking on to neighbouring properties.
- Dominate houses closest to it.
- Set a precedent for the front garden of Leycroft or other such sites to be developed in the village in a similar manner.
- Many appeal decisions have dismissed or refused the development of this site.
- This would be one step too far and would serve to destroy the character of the 16th century settlement forever.
- Destroy the historic nature of Chilworth Old Village and its conservation area.
- Test Valley has a duty to protect the conservation area.
- Very prominent site and a new house on this site would appear out of place against the adjacent 17th Century thatched cottages.
- The proposals will do nothing to enhance or preserve the character of the conservation area.
- If the bank had not been left to get overgrown, the adjacent thatched listed cottages would be a key focal point in the village.
- Contrary to DES05 (Layout and Siting) as it does not relate positively to adjacent the listed buildings.
- Shouldn't be considered an exception site as there is no overriding justification for any additional affordable housing in the village.
- The village is hardly rural in the sense that there is no where else to live nearby.
- A quick internet search reveals plenty of 3 bed houses available less than 1 mile (i.e. in North Baddesley) than this site which would attract similar or less rents than such a house in this village and yet would benefit from more facilities and amenities.
- The policy requires there to be local support for which there is none for this scheme.
- There is no evidence of need for this development and there is no local demand for this type of development in Chilworth Old Village.
- There has been no pre consultation with the parish council, Local Planning Authority or other consultees to confirm that this would be an acceptable exception site.
- A three bedroom modern dwelling would not be 'affordable' in this village.
- The applicant is not a housing association and therefore proposals contrary to ESN05 (Rural Exception Affordable Housing) which is not for private individuals.
- This is a cheat tactic to secure a house in the countryside.
- This is Chilworth Old Village. Its needs should not be lumped in with Chilworth as a whole whose needs are very different.
- No public transport serves the village which may exclude those in need of such housing living in the proposed dwelling.
- Don't see how it will be either affordable to build or to live in.

- The most recent affordable housing assessment was completed in 2004 and this clearly states that there is no particular need for affordable housing in Chilworth.
- The exception policy is not intended to meet the needs of other larger towns and villages.
- Such affordable housing should be retained in perpetuity. Don't see how the needs of a singular unspecified family would ensure this.
- This is a Greenfield site. Not previously developed industrial or agricultural land but was a garden.
- Contrary to SET03 (Development in the Countryside) as there is no overriding need for the development in this village.
- The village design statement states that areas currently classified as countryside should be retained in their present form.
- Will constitute garden grabbing.
- New dwellings on this site have been resisted and dismissed at appeal in the past. What has changed?
- No facilities in the village so additional dwelling will incur additional traffic and vehicles.
- The existing lane that runs through the village is substandard and doesn't benefit from pavements. Additional traffic would therefore be an issue for highway safety.
- Narrow lane is well used by horse riders and cyclists who would be adversely affected by any extra traffic through the village.
- The materials used for the parking area should be permeable to allow water to soak into the soil.
- Another access on to this narrow lane would be dangerous.
- Contest the biodiversity check list. There are veteran trees and ponds in the vicinity of the site.
- Regularly see bats in the area.
- We have seen newts in the wildlife pond adjacent to the site.
- Aware that reptile surveys are being undertaken and whilst September is an ok time for this to be undertaken, as it is getting colder the reptiles go into hibernation. Additional surveys in March/June should also therefore be undertaken.
- Will cause loss of Privacy for 5 Chilworth Old Village.
- Trees are plotted incorrectly which throws doubt on any surveys that have been conducted at the site.
- Result in loss of Oak Tree at Leycroft or at least is at risk of damage.
- The development would severely affect the water table in the village which already suffers from high levels of ground water.
- The village has a number of underground springs which in the winter cause surface flooding. Hard surfacing this area would cause additional problems for flooding.
- Was previously the garden of 5 Chilworth Old Village and owners would be happy to buy it for a reasonable price to maintain it as a wildflower meadow.
- The village want to buy it and use it for allotments or a community green.

- Would affect the health and well being of others living in the village.
- Site should not be used to satisfy the greed of an absent owner or left as a weedy eyesore to demean the village.
- Impact on neighbouring foundations from digging down, piling and impact to natural springs should also be investigated before a decision is made.

6.3 Letter received from the Agent in response to Objections. The following comments made:

- The primary view of the listed cottages from Chilworth Old Village facing north west will not only be preserved but indeed be protected as the landscape/planting forming the frontage and side boundary of the proposed dwelling can be conditioned to be low level thus enhancing current and future views.
- TVBC's conservation team raise no objection to the proposals.
- The dwelling is not dominative in appearance or scale and does not detract from the cottages in the area.
- The scale and siting of the dwelling previously refused at appeal was not seen to be harmful by the inspector. This current scheme involves a lower eaves than that dwelling.
- Housing are pleased to offer support to this application as it provides much needed affordable housing for the village of Chilworth.
- The housing team have also confirmed that that there are currently 11 applicants waiting for housing with local connections to Chilworth thus demonstrating an unmet need.
- If the Local Planning Authority consider that the building needs to be set back further on the site please advise.
- If the scheme is to be approved we would ask that a reptile survey be secured by pre commencement condition.

7.0 **POLICY**

7.1 **Government Guidance:** The National Planning Policy Framework (NPPF); Wildlife and Countryside Act 1981; and The Habitats and Species Regulations 2010 (Habitats Regulations).

7.2 **South East Plan (May 2009) (SEP):** CC1 (Sustainable Development); CC2 (Climate Change); CC3 (Resource Use); CC4 (Sustainable Design & Construction); CC6 (Sustainable Communities and Character of the Environment); CC7 (Infrastructure & Implementation); CC8 (Green Infrastructure); H1 (Regional Housing Provision 2006-2026); H2 (Managing Delivery of the Regional Housing Provision); H3 (Affordable Housing); H4 (Type and Size of New Housing); H5 (Housing Design & Density); T4 (Parking); NRM5 (Conservation & Improvement of Biodiversity); NRM 11 (Development Design for Energy Efficiency & Renewable Energy); SH1 (Core Policy); SH5 (Scale and Location of Housing Development 2006 – 2026) and SH8 (Environmental Sustainability); BE5 (Village Management); C5 (Managing the Urban – Rural Fringe).

7.3 **Test Valley Borough Local Plan (June 2006) (TVBLP):** SET03 (Development in the Countryside); ENV01 (Biodiversity & Geological Conservation); ENV05 (Protected Species); ENV15 (Development in Conservation Areas); ENV17 (Settings of Conservation Areas & Listed Buildings); HAZ02 (Flooding); ESN03 (Housing Types, Density & Mix); ESN05 (Rural Exception Affordable Housing); ESN22 (Public Recreational Open Space Provision); TRA01 (Travelling Generating Development); TRA02 (Parking Standards); TRA04 (Financial Contributions to Transport Infrastructure); TRA05 (Safe Access); TRA06 (Safe Layouts); TRA09 (Impact on the Highway Network); DES01 (Landscape Character); DES05 (Layout and Siting); DES06 (Scale, Height & Massing); DES07 (Appearance, Details & Materials); DES08 (Trees & Hedgerows); DES09 (Wildlife & Amenity Features); DES10 (New Landscape Planting); AME01 (Privacy & Private Open Space); AME02 (Daylight & Sunlight).

7.4 **Other Documents:** Chilworth Village Design Statement (VDS); Infrastructure SPD; Affordable Housing SPD.

8.0 **PLANNING CONSIDERATIONS**

8.1 The main planning considerations are the principle of the development; its impact on the character of the area; impact on surrounding heritage assets; design; impact on neighbouring amenities; trees; highway safety; and ecology.

Principle

8.2 The site is situated in the countryside where as per TVBLP policy SET03 (Development in the Countryside) there is a presumption against new development, particularly for additional residential development, unless there is an overriding need or it is considered to be acceptable as an exception to this general policy of restraint. On this site there is also significant planning history and dismissed appeals which further resist the development of this site for a normal market dwelling.

8.3 Whilst the National Planning Policy Framework has recently been published which provides a general presumption in favour of sustainable economic development, it is not considered that this new policy guidance provides additional weight for the development of this site. This is because the site is previous garden land and is not therefore previously developed land (which is defined by the NPPF and specifically excludes garden land). Furthermore given the small scale nature of the proposals, the application cannot be justified in terms of Housing Land Supply or to meet the identified housing need in the borough.

8.5 The proposals have however been put forward as an affordable housing exception site. TVBLP Policy ESN05 (Rural Exception Affordable Housing) therefore applies. This policy is listed within TVBLP policy SET03 (Development in the Countryside) as a potentially acceptable exception policy to the general policy of restraint that is identified above.

The proposals therefore need to be considered in this context to see if they satisfy the requirements of this exception policy and therefore deemed to be acceptable in principle. The detail of the scheme will also need to be considered and the TVBLP policies ENV, DES and TRA policies are therefore also considered to be relevant for the determination of this application.

Affordable Housing Exception

- 8.6 TVBLP policy ESN05 (Rural Exception Affordable Housing) allows, in rural areas within or adjoining settlements, the development of affordable housing as an exception to the general SET03 (Development in the Countryside) policy of restraint. This is subject to there being an identified unmet need within the Parish for such accommodation by households unable to afford open market housing where a member of each household (rather than each member of a household as is suggested by third parties) is either ordinarily resident in the parish, previously lived there or has strong family connections; they need to live in the village (or its immediate surroundings) by virtue of their employment; or there is a demonstrable need to live in the village either to support or be supported by a family member. If this need can be identified, the policy permits such development in perpetuity despite the site being in designated countryside.
- 8.7 In 2008, a Supplementary Planning Document relating to Affordable Housing was adopted by the Local Planning Authority (Affordable Housing Supplementary Planning Document (March 2008) (SPD)). This forms a material consideration for the application, however this document also states that the guidance should be read in conjunction with any adopted or saved development plan policies, such as TVBLP policy ESN05 (Rural Exception Affordable Housing). This document reiterates the guidance set out in TVBLP policy ESN05 (Rural Exception Affordable Housing) and seeks to secure affordable housing where it is needed. It also ‘strongly recommends’ that pre application consultation is submitted for initial guidance on the suitability of the site but this is only recommended not a requirement.
- 8.8 Section 11 of the SPD, specifically relating to rural exception sites, states that there has to be an identified need for such housing in the Parish and such an exception should be provided to meet a specific need of a rural area, not the needs arising from larger nearby towns and villages. It states that such exception sites are ‘likely’ to be within easy reach of facilities and public transport, and that any development should be designed to be in keeping with the character of the area. It also states that an assessment of other available suitable sites should accompany a planning application with full justification for why the application site was chosen in preference to others being identified. It also confirms that a S106 Agreement will be necessary in order to secure the affordable units in perpetuity.
- 8.9 Section 12 of the SPD further provides a process for parish council’s or local communities to bring forward such development. Whilst this process is encouraged, it seems to relate primarily to larger exception sites which are being brought forward by the Parish Council and aims to speed up the delivery process of such a scheme.

It does not refer to singular one off sites being brought forward by private individuals although the primary policy context (ESN05 (Rural Exception Affordable Housing)) does not exclude such proposals coming forward. Indeed elsewhere in the SPD (namely paragraph 4.3) it is specifically stated that such affordable housing being put forward and owned by private individuals are encouraged providing that it is being managed by a Registered Social Landlord (RSL) and it meets the other Affordable Housing criteria and definition of affordable housing.

8.10 In this instance the applicant, who is a private individual rather than a parish council or community group, has put forward a scheme for the development of the site with one dwelling as an affordable housing exception unit. It is proposed that the dwelling would be for rental purposes for someone on the housing waiting list, specifically related to the Chilworth area. A unilateral agreement has been put forward to secure this dwelling as such an affordable unit. However no detailed assessment has been provided relating to the existing housing needs of Chilworth, no pre-application enquiry has been submitted nor discussion had, or backing received from the Parish Council for the proposals. There is also no comparative assessment of alternative, available and suitable sites in Chilworth accompanying the application. Local concern has therefore suggested that there is no need in the parish for such housing and the application has not fulfilled the necessary preliminary assessments and should therefore be refused.

8.11 However as is discussed above, the principle aim of both the adopted policy and SPD is to secure affordable housing in areas of need. The Council's Housing Team has confirmed that there is a housing need in the parish of Chilworth have supported the development of one house on this site for such a purpose. Given that the proposals only involve the erection of one affordable unit, it is considered that it would be particularly onerous to require a site selection and assessment process especially as the Housing Team has confirmed the proposals suitability and the normal planning assessment of the site/detail (to be discussed below) will establish site suitability. Whilst both Housing and the Council's Legal Team have questioned how the unit will be managed and secured, which will be addressed below, it is clear that there is a need and therefore the principle of a new dwelling on this rural site as an exception in accordance with TVBLP policy ESN05 (Rural Exception Affordable Housing) is acceptable in principle.

The rest of the issues identified can be addressed and secured by means of a Section 106 Agreement (were this application to be heading for permission) and are therefore considered to be easily satisfied.

Character of the Area & Impact on the Existing Heritage Assets

8.12 Whilst the site is situated in the countryside it is surrounded on all sides by other residential properties of varying styles, ages and position in relation to the main road that extends through Chilworth Old Village. Together the cluster of dwellings along with the church and recreation ground are defined as a village and the site is situated in the centre of this village rather than in an isolated location in the middle of nowhere.

The village also has strong links to both the main settlement of Chilworth and the large village of North Baddesley, and the local amenities/facilities they provide, by car, public transport and bicycle.

- 8.13 Whilst development of this site with a normal market house has been strongly resisted in the past, this has primarily been for reasons of principle (the SET03 (Development in the Countryside) or equivalent policies relating to such market housing) rather than character or impact on the adjacent Heritage Assets.

Indeed during the consideration of the most recent appeal decision relating to a single market house on this site (ref: TVS.00645/8 which was dismissed in 1999), the Inspector confirmed that *'a new dwelling on this site must intrude in this open space thereby affecting the present pattern of buildings and open spaces in the centre of the village'*. However despite describing the proposed dwelling in that case as a *'2 storey building, which unlike Rose Cottage adjacent will have a visual dominance of wall over roof'*, and significantly higher eaves levels than *Rose Cottage (5 Chilworth Old Village)*, the Inspector considered that *'I do not consider that a building of this scale and massing would intrude to an extent that would alone justify a refusal of planning permission'*. It was also confirmed that *'the contribution of the space to the character and appearance of the area would be retained. I also consider that the detailed design of the building and the choice of materials would be acceptable in this location'*. It was also concluded that, whilst other fallback positions such as returning the site to garden or regenerating it as woodland would be likely to result in a greater enhancement, *'it would be difficult to protect views of Rose Cottage across the site from the south east over the long term'* and that overall *'the proposals would have no unacceptable adverse impact on the conservation area'*.

- 8.14 With regard the potential impact on the listed buildings in the vicinity, the Inspector also concluded that *'It would be taller than Rose Cottage, with different scale and proportions. Although the proposal would necessarily have a material impact on the setting of the nearest listed buildings and, to a lesser extent, on the group of listed buildings as a whole, I do not consider that this would alone justify a refusal of planning permission'*.

- 8.15 The current proposals involve a largely similarly designed and size of dwelling to that considered by the Inspector in 1999. It is however to only be 1½ storeys in height and is to have lower eaves. Its overall ridge and eaves lines are also to be lower than the neighbouring *Rose Cottage (5 Chilworth Old Village)* which is a Grade II listed building. It too is to be situated fairly centrally in the plot (a distance of 8 metres from the common south western boundary and presents a blank façade approximately 14 metres away from neighbouring facing elevations) and is to be dug down slightly into the site. It is also to be slightly set back from the front 'building line' created by *Rose Cottage*. The proposal presents a double frontage to the main road, rather than a gable end as previously proposed, which thereby results in the narrower, hipped gable end being presented to the neighbouring property.

- 8.16 Whilst there is much local opposition to a dwelling on this site in terms of the potential resultant impact on the character of the village, conservation area and adjacent listed buildings; and it is again suggested that there are alternative uses for the site such as returning it back to garden land which would be more appropriate for its position in the village, given that the scheme is reduced comparative to the previous application for a market dwelling on the site and given the Inspector's findings in relation to the previously refused dwelling in these regards (which are still material considerations for this application despite their age), it is not considered appropriate to refuse this application on these grounds. The Council's Conservation Officer has therefore raised no objection to the proposals accordingly.
- 8.17 The development of this 0.07 hectare site with one detached dwelling is also not considered to constitute overdevelopment as is suggested by local objection. The fairly modest size of the proposals; the size of the resultant garden to serve the dwelling; and that other requirements such as on site parking and turning can also be accommodated it is considered that the plot is of ample size to accommodate one dwelling.

Design

- 8.18 The proposed dwelling is to be of clay tile (or similar) roof with a painted brickwork construction, which are both fairly common materials found in and around the village. It also has a traditional and attractive design incorporating porch and chimney details as well as unusual window headers and shutter details. Whilst this is not completely reflective of the adjacent listed building which instead is a simple 17th Century thatch cottage, it is considered to be attractive and reflective of the traditional character of the majority of the vernacular in the village. The Council's Conservation Officer has also raised no objection to the proposed design. It is therefore considered to be acceptable for this site and is certainly not found to be detrimental or unacceptable enough to warrant an additional reason for refusal of the scheme on design grounds.

Neighbouring Amenities

- 8.19 Local concern has been raised about the potential impact of the development on neighbouring amenities in terms of dominance and privacy. However given its fairly modest scale, the fact that it will be set into the site; and its proposed distance from common boundaries it is considered unlikely to result in any significant impact in this regard. The neighbouring property to the north (*Windyridge*) is situated on higher ground to the proposal and the common boundary is defined by a mature tree belt to the extent that the neighbouring property is hardly discernable from the street or site. Furthermore, the proposed dwelling is to be located at least 12 metres from the common boundary with the neighbouring property, which is also set back from this shared boundary. The proposals are not therefore considered to create an unacceptable or inappropriate relationship between the two properties or neighbouring residents in terms of privacy, dominance or shadow.

- 8.20 Likewise the residents at *Leycroft* (to the east); and *Autumn Leaves* and *Woodpeckers* to the south are also considered to be protected by virtue of *Leycroft's* access driveway, a tree belt, the gardens serving the existing properties level changes; and the level of separation that will also be afforded between facing windows in this regard.
- 8.21 The neighbouring amenities that are therefore most likely to be affected by the proposed dwelling, are those of the residents of *Rose Cottage* (5 *Chilworth Old Village*). This adjacent property has historically been subdivided into 3 properties so that number 5's principal elevation and amenity space now face towards the site. Its primary rooms are therefore also served by windows facing on to the site. However the level of separation between the proposed dwelling and this neighbouring property is between 14 and 16 metres. No windows are proposed on the main façade of the proposed dwelling that is to face this neighbour and only a ground floor porch and kitchen window are proposed on this western elevation of the proposal (but at a greater set back than the main façade equating to a distance of between 18 and 20 metres between facing windows). The fact that the proposed dwelling is to be slightly dug into the site; is to have lower eaves and ridge lines to the neighbouring cottage; and the intervening boundary trees and hedgerows that exist, it is considered that any potential impact in terms of dominance, overlooking or overshadow is likely to be minimal and certainly not significant enough to warrant an additional reason for refusal of the scheme.

Trees

- 8.22 The scheme was originally supported by an inaccurate tree survey which thereby resulted in an objection to the scheme from the Council's Arboricultural Officer. However during the course of the application a revised Arboricultural Report has been submitted. This has been confirmed as being far more accurate and a better reflection of the situation on site but is still considered to be lacking in some necessary information relating to trees.
- 8.23 However the Council's Arboricultural Officer has confirmed that despite the inadequacies of the submitted documentation, a dwelling such as that proposed would still be feasible and possible on the site without harm to trees protected by virtue of their location in a conservation area.

Therefore subject to appropriately worded conditions, the original objection to the scheme on tree grounds has now been withdrawn and this is not now considered to warrant an additional reason for refusal of the scheme.

Highway Safety

- 8.24 Local concern has been raised about the suitability of the existing lane to accommodate the additional traffic that would be generated from the site and/or the position of the proposed new access to serve the dwelling. However the Highway Authority has raised no objection to the proposals (subject to conditions) in this regard. The level of parking proposed is considered to accord with the Council's adopted parking standards as set out in TVBLP policy TRA02 (Parking Standards) and as such the proposals are not considered to result in any adverse implications for highway safety.

Ecology

- 8.25 The application has been accompanied by a biodiversity checklist but limited other information regarding protected species on this site has been provided. Local concern has been raised about the inadequacies and inaccuracies of the biodiversity checklist and have alleged the presence of bats, reptiles, nesting birds and newts on or adjacent to the site. The Council's Ecologist has also confirmed that, whilst there is no issue that needs to be addressed in relation to nesting birds or bats, the site presents a suitable and good habitat for reptiles such as slow worms.
- 8.26 Reptiles and Great Crested Newts are protected by both EU and UK law via the Wildlife and Countryside Act 1981 (as amended) and/or under EU law by the Habitats Directive, which is transposed into UK law by the Conservation of Habitats and Species Regulations 2010 (commonly referred to as the Habitats Regulations). These species are therefore a material consideration in the planning process and the potential impact of a development on such potentially ecological constraints needs to be assessed up front, and where necessary mitigation incorporated into the scheme, before permission can be granted.
- 8.27 Therefore, and in the absence of any survey work having been undertaken to confirm the potential impact of the development on either reptiles or Great Crested Newts, the proposals currently fail to address the requirements of the Wildlife and Countryside Act 1981, the Habitat Regulations 2010 nor TVBLP policy ENV05 (Protected Species). Given the late stage in the application it is not possible at the time of writing to accept the submission of any additional information in this regard and the scheme is therefore recommended for refusal on this basis accordingly.

Legal Agreement

- 8.28 Whilst the application is heading for refusal, as the proposals involve a net gain in the number of dwellings in the area, contributions towards a public open space deficit in the area and non car modes of transport need to be considered, as per the provisions of TVBLP policies ESN22 (Public Recreational Open Space Provision) and TRA04 (Financial Contributions to Transport Infrastructure) respectively and the Council's adopted Infrastructure SPD. In this instance, on assessment of the scheme and projects in the locality, both public open space and highway contributions would be required. Furthermore, given the nature of the proposals, the use of the dwelling for an affordable housing unit would also need to be secured.
- 8.29 The application is accompanied by a draft unilateral agreement to secure the above requirements. However the Council's Legal Team has confirmed that some of the phrasing and wording of the unilateral agreement are insufficient and the Housing Team have equally confirmed that some of the proposed measures for managing and securing the affordable housing unit are not agreed. Whilst these issues could all be resolved by the creation of an agreed S106 agreement, as the application is heading for refusal on ecology grounds the Council has not actively pursued an amended legal agreement and therefore there is no appropriate agreement currently in place.

Therefore given the absence of an appropriately worded legal agreement to secure the required financial contributions or the management of the affordable housing units, additional reasons for refusal are considered to be necessary on this basis.

Other Issues

- 8.30 Local concern has been raised that the acceptance of this application would set a precedent for other such sites around the village including the adjacent garden serving *Leycroft*. However as always, each application is considered on its own merits against the relevant policies in the Development Plan, other material considerations and national guidance. Any such future applications for other sites would need to be considered accordingly and are not dependent on this application being either refused or approved.
- 8.31 Issues of potential flooding or impact on natural springs have also been raised by some local objections. However the site is not situated in either flood zones 2 or 3 and is not over 1 hectare in size. Therefore no flood risk assessment is required to accompany the application. Instead issues of proposed drainage, were this application to be heading for permission, would be controlled by other legislation such as at the building regulation stage.
- 8.32 Impact on private views and property values have also been raised but these are not considered to be material planning matters that can be taken into account.

9.0 CONCLUSION

- 9.1 Whilst an affordable housing unit could be accepted in principle as an exception to the usual policy of restraint in this countryside location this; and the design, siting and massing of the proposed development is not considered to have a detrimental impact on the character of the area, conservation area, setting of the adjacent listed buildings, trees, neighbouring amenities or highway safety, insufficient information has been submitted to confirm that the development will not have a significant or detrimental impact on UK and EU protected species. In the absence of such information or an appropriately worded agreement to secure the necessary financial contributions or the unit as an affordable housing unit in perpetuity, the development is recommended for refusal accordingly.

10.0 RECOMMENDATION

REFUSE for the reasons:

- 1. No survey information has been submitted to confirm if reptiles or amphibians, including the European protected Great Crested Newts, are present at or in the vicinity of the site. In the absence of such information it is not possible to establish what impact the development is likely to have on such protected species and/or ensure that any necessary mitigation measures are secured or incorporated into the scheme. The proposals are therefore considered to be contrary to the requirements of the Wildlife and Countryside Act 1981 (as amended); the Conservation of Habitats and Species Regulations 2010 and Test Valley Borough Local Plan (June 2006) Policies ENV01, ENV05 and DES09.**

- 2. The proposed development fails to make provision for contributions towards non-car modes of transport to encourage a reduction in the generation of road traffic which are necessary to make the development acceptable in planning terms. It is therefore considered to be contrary to Test Valley Borough Local Plan (June 2006) policy TRA04 (Financial Contributions to Transport Infrastructure) and the Test Valley Infrastructure and Developer Contributions Supplementary Planning Document (2009).**
 - 3. The proposed development fails to make provision in the form of a contribution towards public open space provision as mitigation against an identified deficiency in the quality of existing public open space in the locality which is necessary to make the development acceptable in planning terms. It is therefore considered to be contrary to Test Valley Borough Local Plan (June 2006) Policy ESN22 (Public Recreational Open Space Provision) and the Test Valley Infrastructure and Developer Contributions Supplementary Planning Document (2009).**
 - 4. The proposed development fails to properly secure the proposed dwelling as an affordable housing unit of accommodation in perpetuity or ensure its proper management by a Registered Social Landlord. The proposals, if approved, would therefore represent an undesirable additional dwelling for which there is no overriding justification in an area of countryside beyond the limits of the defined settlement. The proposals are therefore considered to be contrary to the National Planning Policy Framework; Test Valley Borough Local Plan (June 2006) policies SET03 (Development in the Countryside) and ESN05 (Rural Exception Affordable Housing); the Affordable Housing Supplementary Planning Document (2008); and the Chilworth Village Design Statement**
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APPENDIX B

Update Report to Southern Area Planning Committee – 9 October 2012

APPLICATION NO.	12/01650/FULLS
SITE	Land between Leycroft and 5 Chilworth Old Village, Church Lane, Chilworth Old Village, CHILWORTH
COMMITTEE DATE	9 October 2012
ITEM NO.	14
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1.0 PLANS

- 1.1 The submitted plans relevant to this application were previously missed off the agenda. These have been forwarded to Members by email prior to the committee but are now also provided as part of this update paper.

2.0 REPRESENTATIONS

- 2.1 3 additional letters of objection have been received since the agenda report was written, from the residents of Cat Cottage; Martins Roost; and 15 Chilworth Old Village. The following comments made:
- A new replacement dwelling is being built behind our house which is causing cracks in our property and a large trench has appeared in our garden. That house required pile driven support foundations.
 - Concerned about another new build in the vicinity causing issues/damage for the surrounding 17th Century properties which have very shallow foundations.
 - An estate agent told us that as this is a conservation area no new houses could therefore be built on the empty plots in the village.
 - If this is allowed the village will become overcrowded and lose its charm.
 - We are seeking legal advice from the solicitor who dealt with our house purchase.
 - There is enough affordable housing provision in the area.
 - I would not mind if the development was being done by a resident for his children or elderly parents. However this is being done by an outside property developer who doesn't love the village's culture and history.
 - The applicant is looking for a quick turnover and profit rather than forming a long term personal connection to the village.
 - The difference one building could make to the overall housing need in the test valley area is minimal whereas its implications for the village and community are substantial.
 - Detracts from the view of the medieval core.
 - Allowing a new building would contradict the strict regulations of the conservation area.
 - Would set a precedent.

3.0 **PLANNING CONSIDERATIONS**

- 3.1 All of the issues raised by the additional representations have already been addressed in the officer report in the agenda. Taking into account the planning history for the site; previous appeal inspector decisions; the merits/constraints of the site and scheme; and consultee advice, it is considered that there is an established need for affordable housing in the parish; an appropriately worded legal agreement would secure the dwelling to meet the *local* housing need in perpetuity; and it is not considered that the development of this plot would have a detrimental impact on the character of the conservation area and surrounding listed buildings. The issues raised about damage that may or may not be caused to neighbouring properties is not a planning matter for consideration but instead would be a civil matter that would have to be pursued through legal channels if such harm should be caused to private property. None of these additional comments are therefore considered to warrant or justify an additional reason for refusal of the scheme. The officer recommendation therefore remains unchanged and as per the agenda.
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