



DORNEY

PARISH COUNCIL

Written Submission to The Planning Inspectorate

Appeal Number: APP/N0410/W/23/3335905

Boveney Court Farm Boveney Road Dorney SL4 6QG



The 17th Century timber framed barns of Boveney Court Farm
From the Boveney Conservation Area Appraisal 1996
(Courtesy of Bucks Council Directorate of Planning)

Conservation Areas “are areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance.”

(section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990).

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Executive Summary by Jill Dax, Chair, Dorney Parish Council

Dorney Parish Council is very disappointed that the Appellant, at no time over the past five years that this planning application has been in process, sought to meet with us in order to find a mutually satisfactory solution to the use of the listed and curtilage-listed buildings at Boveney Court Farm. It is a very sensitive area, for numerous reasons including the Green Belt, the Boveney Conservation Area, the size of the hamlet and practical considerations such as access via Boveney Road.

Our preferred solution is to continue to see these buildings used, as they have been over at least the past 30 years, for employment. Successful businesses have used these buildings as recently as 2019 and employed a significant number of people.

Further to the Appellant's decision to appeal the Refusal decision of Bucks Council, we have considered carefully all of the documents provided by Bucks Council and the Appellant. As a small parish of 700 residents, we have limited resources to conduct a detailed assessment and we do not have the funds to employ professional consultants. However, we have attempted to respond to the key issues that we believe are important.

It is our conclusion that, for the reasons stated in this Executive Summary, we agree with the Reasons for Refusal following the planning application hearing and, therefore, would urge that this Appeal be dismissed.

The application of the National Planning Policy Framework and other Policies

We have thoroughly assessed the proposed development in Boveney against the National Planning Policy Framework (NPPF) and other Policies, particularly focussing on the protection of the openness of Green Belt land and the Boveney Conservation Area. Our review supports Reason 1 of the Planning Committee's Schedule of Reasons for Refusal.

The proposal fails to prevent urban sprawl and causes substantial harm to both the openness of the Green Belt and the Boveney Conservation Area. Despite the appellant's offer to contribute to affordable housing, we do not believe that it can possibly qualify as "very special circumstances".

The new buildings substantially impact the openness and character of the locality and fail to respect the surrounding development's height and density, as outlined in NPPF policies.

Additionally, the excessive development poses threats such as noise, visual intrusion, and light pollution, further compromising the area's quality.

We concur with the Planning Committee's decision to refuse the planning application, as it fails to provide significant public benefits that outweigh the substantial harm to the Conservation Area and the openness of the Green Belt. Furthermore, existing policies, including the Boveney Conservation Area Appraisal, remain valid and in date and should be given considerable weight in decision-making processes.

The visual evidence and landscape assessment underscore the detrimental impact of the proposal on the openness and character of Boveney. The massing metrics and lack of clarity regarding building permits on Green Belt land further emphasise the unsuitability of the development.

In conclusion, we believe that the proposed development, with its potential harm to the openness of the Green Belt and Conservation Area, should not be permitted in accordance with NPPF

guidelines. The cumulative effect of new houses and associated infrastructure exacerbates the threat to the area's natural beauty, tranquillity and heritage.

Boveney Conservation Area Appraisal

The proposal for development in Boveney has been evaluated against the Conservation Area Appraisal, emphasising the enhancement and preservation of architectural and historical significance. However, it demonstrably fails to enhance or preserve the special character and setting of Boveney, as outlined in the Boveney Conservation Area Appraisal, authored by Bucks Council's Planning Department.

All existing buildings on the site are listed or curtilage listed (except the Open Barn to be demolished), highlighting their heritage significance.

The fact that Bucks Council have not, since 1996, determined to review the Boveney Conservation Area Appraisal indicates the current Appraisal's validity and up-to-dateness. The Planning Committee's recognition of the document's importance reinforces its relevance in decision-making processes.

The misplacement of the Boveney Conservation Area Appraisal by Bucks Council, the Local Planning Authority (LPA), reflects a failure to consider its impact on proposed developments. This non-compliance undermines trust in the planning process.

We demonstrate the fact that, when the Boveney Conservation Area Appraisal is considered as a "material consideration", with considerable weight given to it, the two planning decisions where this has occurred have resulted in a Refusal.

The Supreme Court's ruling on "material consideration" emphasises the obligation to consider such relevant factors in planning decisions, reinforcing the importance of Appraisals like Boveney's. The limited weight given to the appraisal by involved parties appears to have been incorrect, reflecting a misunderstanding of its significance.

In conclusion, the Boveney Conservation Area Appraisal provides a crucial basis for assessing proposed developments, ensuring the preservation of heritage assets. Its alignment with policy frameworks and legal precedence underscores its importance in decision-making processes, advocating for its due consideration in planning decisions.

We support Reason 2 for the Refusal of the planning application.

Employment Implications

Dorney Parish Council contests the conclusions of the desk-top Commercial report regarding the area's businesses, asserting its inaccuracy. We advocate for the essential repair and refurbishment of all of the listed buildings, particularly Barn A and Barn B, alongside a comprehensive marketing effort conducted in collaboration with the Council.

The proposed actions aim to stimulate economic activity in the area by revitalising existing structures and attracting potential businesses through strategic marketing. Dorney Parish Council's proactive approach underscores our commitment to fostering employment opportunities and economic growth within the community.

Housing Considerations

The Buckinghamshire Council's 5 Year Housing Land Supply Position Statement is pending review, indicating a nuanced approach to housing supply evaluation. Despite the Appellant's focus on the South Bucks Area, a comprehensive assessment of all four Planning Areas reveals a 4.1-year housing supply estimate for the entire council, compared to the South Bucks metric of 1.6 years.

Recent Bucks Council discussions highlight the potential to meet housing needs without encroaching on the Green Belt, suggesting alternative avenues for development.

In addition, the 2019 assessment of Dorney Parish by Bucks Council emphasises its unsuitability for major new development due to limited services and facilities.

The proposed housing density at Boveney Court Farm far exceeds current norms for Boveney and Dorney Parish and is excessive.

Boveney Road Traffic Concerns

The projected increase in traffic due to the proposed development poses significant challenges for Boveney Road, a 1km rural single-track lane with no passing places. The 50+% of additional traffic from the proposed development would adversely impact nearby properties and the general locality, raising concerns about compliance with relevant policies.

Furthermore, existing evidence suggests that Boveney Road may not be suitable to accommodate the traffic generated by the proposed 12 houses, including concerns about bridge structure capacity. Additionally, safety concerns regarding vehicle speeds and visibility splay requirements necessitate a thorough professional traffic survey to determine the road's suitability for the proposed development.

Parking Concerns

The proposed development lacks adequate designated parking spaces, potentially leading to parking congestion issues within the site. With limited parking space available and restrictions on parking in adjacent areas such as the single-track Boveney Road and Dorney Common, there are concerns about compliance with relevant policies regarding parking provision.

The inadequate parking provision exacerbates the challenges posed by the remote location of the site and contradicts the sustainability goals outlined in local and national policies. As a result, the current parking proposal appears to be flawed and may not align with the requirements of the National Planning Policy Framework (NPPF) and other relevant regulations such as the Bucks Council's Parking Guidelines for Major New Developments.

Jill Dax

Chair, Dorney Parish Council

2 April 2024

Supporting the Planning Committee's Reasons for Refusal

Planning Committee Reason 1. *The application site is located within the Metropolitan Green Belt wherein there is a general presumption against inappropriate development except in very special circumstances.*

The proposed development, by virtue of the increase in built form on the site, the increase in the number of buildings, and the bulk and massing of the new buildings, would cause substantial harm to the openness of the Green Belt spatially and visually, including when viewed from across the adjacent fields.

The proposed development therefore fails to meet any of the exceptions for development allowed in the Green Belt, and as such constitutes inappropriate development within the Green Belt, which by definition is harmful.

Harm is therefore caused to the Green Belt by virtue of its inappropriateness, and substantial reduction in its openness. The NPPF sets out that substantial weight should be given to any harm to the Green Belt.

No very special circumstances have been advanced that clearly outweigh the harm that would be caused to the Green Belt by reason of inappropriateness and a reduction in openness.

As such the proposal is contrary to policy GB1 of the South Bucks District Local Plan (adopted March 1999) and section 13 (Protecting Green Belt Land) of the NPPF.

Dorney Parish Council Comment: We fully support Reason 1 of the Planning Committee's Schedule of Reasons for Refusal. We have carefully reviewed Section 13 (Protecting Green Belt Land) of the NPPF and comment on the points emphasised below within the relevant NPPF policies:

NPPF Sections and Paragraphs relevant to this Refusal Reason

Relevant Content in bold

13. Protecting Green Belt land

142. The government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Dorney Parish Council Comment: In our opinion, the Appellant's proposal fails to prevent urban sprawl, especially by doubling the dwellings in a tiny, tranquil hamlet. It fails this policy.

143. Green Belt serves 5 purposes:

(d) to preserve the setting and special character of historic towns; and

Dorney Parish Council Comment: Demonstrably, the proposal fails to preserve the setting and special character of Boveney, as eloquently and independently described by Bucks

Council's Planning Department in the Boveney Conservation Area Appraisal document. It fails this policy.

146. Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development.

Dorney Parish Council Comment: The "strategic policy-making authority" (Bucks Council) state on their website " *Buckinghamshire 5 Year Housing Land Supply Position Statement is under review and will be uploaded in due course.*". We have aggregated the Housing Land Supply of the four Bucks Planning Areas and derived an estimate of a 4.1 year supply of housing for the LPA. The use by the Appellant of solely the South Bucks Area of 1.6 years, whilst true, does not represent the whole picture.

Proposals affecting the Green Belt

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Dorney Parish Council Comment: It is our strong opinion that the proposal places substantial harm both to the Green Belt and to the Boveney Conservation Area. We do not believe that the Appellant offering to pay 50% of the required affordable houses contribution can possibly qualify as "very special circumstances".

153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Dorney Parish Council Comment: As stated, we are convinced from the evidence, that – as stated by the knowledgeable members of the Planning Committee – this proposal causes substantial harm to the Green Belt. Again, as stated, we cannot believe that a contribution to 2.5 affordable homes should sacrifice Boveney on the altar of a damaging "exception".

154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
(g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- ***not have a greater impact on the openness of the Green Belt than the existing development; or***
- ***not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.***

Dorney Parish Council Comment: From all of the Appellant’s arguments, it is clear that they are totally relying on this “exception” to double the size of Boveney with a very high density proposal, adding bin stores, cycle stores, 1.8m fences and other domestic paraphernalia, causing chaos on Boveney Road, not professionally considering demonstrable employment use and all of this in a parish which the LPA clearly states that neither Dorney nor Boveney are suitable for a major development such as this.

As stated, we agree with the Planning Committee that the proposal causes substantial harm and, therefore, it fails this policy.

Other Policies relevant to this Refusal Reason

Core Policy 8: Built and Historic Environment

The protection and, where appropriate, enhancement of the District’s historic environment is of paramount importance.

*In particular, nationally designated historic assets and their settings, for example Scheduled Ancient Monuments and **Grade I, II* and II listed buildings**, will have the highest level of protection.*

Dorney Parish Council Comment: All existing buildings on the site are either listed buildings or curtilage listed as stated by the Heritage Officer at the Pre-Application Stage: “*L-shaped range NE of ‘Barn on south side of farmyard at Boveney Court Farm’ and attached addition to the north (brick and clay tile construction) [are] curtilage listed.*”. We have seen no evidence to change this position.

*Locally important heritage features and their settings also make an important contribution to the creation of distinctive and sustainable places and **will also be protected, conserved and enhanced where appropriate. The protection and where appropriate enhancement of historic** landscapes (including archaeological sites, Historic Parks and Gardens and Ancient Woodlands) and **townscapes, especially those that make a particular contribution to local character and distinctiveness, will be informed by evidence**, for example, characterisation studies such as the Bucks Historic Landscape Characterisation Study. [and the Boveney Conservation Area Appraisal].*

*All new development must be of a high standard of design and **make a positive contribution to the character of the surrounding area. The Council will also continue its programme of reviewing existing Conservation Areas and designating new Conservation Areas where appropriate.***

Dorney Parish Council Comment: We are not aware of any review of the Boveney Conservation Area being proposed or undertaken by Bucks Council. It is to be assumed that Bucks Council do not consider such a review necessary, otherwise they would have

conducted one. Therefore the current Boveney Conservation Area Appraisal is both valid and up-to-date.

POLICY EP3 - THE USE, DESIGN AND LAYOUT OF DEVELOPMENT

Development will only be permitted where its scale, layout, siting, height, design, external materials and use are compatible with the character and amenities of the site itself, adjoining development and the locality in general. Poor designs which are out of scale or character with their surroundings will not be permitted.

In assessing proposals, the Council will have regard to:-

(a) Scale of Development

Development should be in scale with surrounding development, including any buildings which are to be retained on the site, and should not adversely affect the character or amenities of any nearby properties or the locality in general.

The retention and provision of space between buildings should respect the scale of spaces in the locality.

Dorney Parish Council Comment: The development is not at all in scale with the surrounding environment and adversely affects the character of the locality (Boveney Conservation Area).

(b) Layout of Development and Siting of Buildings

The layout of development and the siting of buildings should make positive use of the intrinsic qualities and features of the site including its topography, landscaping, water features, and views into or out of the site.

The siting of buildings should not adversely affect the character or amenities of any nearby properties or the locality in general.

Dorney Parish Council Comment: The new, large, dominating buildings cause substantial harm to the views into and out of the site. They adversely affect the character of the locality in general.

(c) Height of Development

The height of new development should respect the height of surrounding development, including any buildings on the site which are to be retained, and the height of buildings in the locality generally.

Dorney Parish Council Comment: The heights of the two new buildings are respectively – H&J 10.7m and K, L, M 9.95m. The heights of the retained buildings are Buildings F & G 7.1m, Buildings C & D 7.2m, Building E 6.33m and Barn B 8.4m. Consequently, the new buildings do not respect the height of the surrounding development and therefore fail this policy.

(f) Use of Land and Buildings

*The use of land and buildings should be compatible with the uses of adjacent land and buildings and with the character and amenities of the locality in general. **Permission will not be granted for uses which would be, or which would have the potential to be, detrimental to the character and amenities of nearby properties or the locality in general by reason of noise, vibration, smell, pollution, disturbance, visual intrusion, loss of privacy, the impact of traffic, or other nuisance.***

The scale of a proposed use should be compatible with and not adversely affect the character or amenities of neighbouring properties or the locality in general.

Dorney Parish Council Comment: The excessive development of 12 high density buildings certainly has the potential to be detrimental to the character and amenities of nearby properties and the locality in general by reason of noise, disturbance, visual intrusion, loss of privacy, the impact of traffic and light pollution as well as seven windows in Building C directly overlooking the garden of Boveney Court Farmhouse. It fails this Policy.

POLICY C1 - DEVELOPMENT WITHIN A CONSERVATION AREA

Development within a Conservation Area that fails to preserve or enhance its character or appearance will not be permitted. Development will only be permitted where:-

a) the proposal would preserve or enhance important features which contribute to the character or appearance of the Conservation Area including:-

- i) views into or out of the Conservation Area,*
- ii) hedges or trees,*
- iii) walls and other means of enclosure,*
- iv) spaces between buildings,*
- v) roofscape; and*

Dorney Parish Council Comment: The proposals for the new buildings fail all of these features, in our opinion.

c) the proposal would comply with all the other policies in this Plan. Particular attention is drawn to policies TR5 (Accesses, Highway Works and Traffic Generation) and TR7 (Parking Provision).

Dorney Parish Council Comment: Per Para c above, we have also considered Policies TR5 and TR7 and find the proposal appears to be non-compliant in all of them:

POLICY TR5 - ACCESSES, HIGHWAY WORKS AND TRAFFIC GENERATION

*In considering proposals involving a new or altered access onto the highway, works on the highway, the creation of a new highway or **the generation of additional traffic** the District Council will have regard to their effect on safety, congestion and the environment.*

Development will only be permitted where:-

(c) traffic movements, or the provision of transport infrastructure, would not have an adverse effect on the amenities of nearby properties on the use, quality or character of the locality in general, including rural lanes.

Dorney Parish Council Comment: As shown in our Submission Page 108, it is projected that there will be a significant amount of additional traffic. This traffic would adversely impact nearby properties and the locality in general, including a rural lane, one kilometre long with no passing places (Boveney Road) and is therefore non-compliant with this policy.

POLICY TR7 - PARKING PROVISION

Development will only be permitted only where:-

(d) it would not be likely to result in non-residential on-street parking in residential areas.

Dorney Parish Council Comment: As shown in our Submission Page 112, there is definitely a lack of at least two designated parking space and, possibly, four or ten. As there is, certainly, little, if any, space to park elsewhere within the development, without blocking emergency vehicles, visitors will be forced to park on Boveney Road, which will block this single-track lane to all traffic, including emergency vehicles. Parking on the Common is also contrary to the bye-laws of Dorney Common. Consequently, this will result in non-residential on-street parking in a residential area, resulting in being non-compliant with this policy.

Planning Committee Reason 2. The application site predominantly falls within the Boveney Conservation Area.

The Boveney Conservation Area Document notes that Boveney has a tranquil rural character and seems to be almost untouched by the development that has spoilt similar settlements.

Furthermore, it highlights that the hamlet has a rural, low density character which is worthy of preservation. The size of the proposed development, including the number of dwellings and its overall density, would be out of character within the context of the rural, low density character of the existing hamlet and it would therefore fail to preserve or enhance the character and appearance of the Boveney Conservation Area.

The public benefits of the scheme do not outweigh the harm that would be caused to the conservation area. As such, the proposal is contrary to policies EP3, and C1 of the South Bucks District Local Plan (adopted March 1999), CP8 of the South Bucks Core Strategy (adopted February 2011), and the provisions of the NPPF.

Dorney Parish Council Comment: The Planning Committee were among the first people at Bucks Council to read the Boveney Conservation Area Appraisal (1996) document between 21 and 25 July 2023, the date of the Planning Committee Meeting. Several members took the opportunity, during those few days, to revisit the site so that they could appreciate the new, legal information provided by us. It is clear from the members' discussion at the

Meeting that they recognised both the importance of the document and the fact that it was not outdated. As one member pointed out “if there was a need to update it, it should have been updated. It wasn’t, so it remains valid”

NPPF Section 16. Conserving and enhancing the historic environment

*195. Heritage assets range from sites [such as the Boveney Conservation Area] and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value⁷⁰. **These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.***

Dorney Parish Council Comment: We know Boveney very well and, as the majority of residents and visitors, we recognise its timeless tranquillity. It is an irreplaceable resource and should be conserved, not destroyed. We are simply the custodians of our heritage – as were those over the last 1,000 years who also looked after and cared for this valuable asset. It is too important to our heritage to be given up simply for the monetisation of the Appellant’s land.

Proposals affecting heritage assets

201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.

Dorney Parish Council Comment: In this case the LPA wasn’t able to determine the particular significance of this heritage asset (Boveney Conservation Area) because they had mislaid the available evidence – the Appraisal document. Not only had they mislaid it but, over the five year planning process, they failed to look for it. It was available. We had a copy of it as did the Dorney History Group and so did residents. Nobody asked us for a copy. This catalogue of errors resulted in the Planning Department not considering the full impact of this planning proposal on the Boveney Conservation Area and hence they were not able to avoid or minimise any conflict between the conservation of the Conservation Area and this damaging proposal. The proposal is not compliant with this Policy.

Considering potential impacts

205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Dorney Parish Council Comment: We agree.

206. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Dorney Parish Council Comment: We agree. No clear and convincing justification has been made – with the possible exception of 2.5 affordable houses. Not exactly clear and convincing justification.

207. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset [such as the Boveney Conservation Area], local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and**
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and**
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and**
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.**

Dorney Parish Council Comment: It is our considered opinion that this proposed development will lead to substantial harm to the Boveney Conservation Area (as well as the Green Belt). We agree with the Planning Committee that it should be refused. The Appellant has been unable to provide any substantial public benefits that outweigh the substantial harm to the Conservation Area. Nor do any of the above a) to d) items apply.

Planning Committee Reason 3. *The NPPF seeks the provision of affordable housing provision on residential development where 10 or more homes will be provided. Core Policy 3 of the South Bucks District Core Strategy (2011) seeks to secure at least 40% of a development to be provided in the form of units of affordable accommodation, unless it is clearly demonstrated that this is not economically viable. In the absence of a suitable legal agreement to secure an appropriate affordable housing contribution, the proposal would be contrary to the aims of the NPPF and Core Policy 3 of the South Bucks District Council Core Strategy (2011).*

Appeal Statement of Case - Savills

Site Address: Boveney Court Farm, Boveney Road, Dorney, Buckinghamshire

	Submission by Appellant	Response from Dorney Parish Council
2.1.	Site Description	
2.1.1.	The appeal site is identified at Figure 1 below and comprises a number of vacant former buildings that were previously used by Eton College's Grounds Maintenance Team for equipment storage and maintenance. They comprise a series of converted agricultural buildings, including a Grade II statutory listed building known as 'Barn B'.	The previous tenant (pre Dorney Lake equipment) was Landmark Tree Surgery. They occupied the site for 25+ years and ran a successful business employing eight people. It is believed that the Appellant asked Landmark to vacate the site to allow the Appellant's Dorney lake business to use it. There is no reason whatsoever why it cannot be used again for employment. Please see Page 89 of our Submission for further details.
2.1.4.	The appeal site sits within a mature landscape which visually contain it and shield it from public views within the Boveney Conservation Area. There are mature trees on the site's northern and western boundaries and there are mature trees to either side of Lock Path to the south of the site. Due to its size and location, the site presents opportunities to further improve the landscape features	This is factually incorrect. The site is easily visible from Boveney Road which is within the Boveney Conservation Area. It is also visible throughout the winter as a large number of the trees are deciduous. The preference of Dorney Parish Council, based on resident's recent surveys, is not "to further improve the landscape features" .
2.1.5.	The Transport Statement by Stantec (CD 1.10) assesses the existing conditions of the local highways network. The site has a vehicular access from Boveney Road and there is regular vehicle traffic to the site. A review of the accident analysis on the local highways network showed that there are no identified trends of accidents within the vicinity of the site. The site is located in close proximity to Dorney, Eton Wick and Windsor, and these locations can be accessed by sustainable transport modes, especially by cycle.	This is factually incorrect. The last time there was "regular vehicle traffic" to the site was when Landmark were tenants. We understand they left in 2019. Bucks Council's assessment in 2019 regarding services was as follows: "This parish has very few services and facilities and is not considered suitable for major new development." The site is not located in close proximity to Dorney, Eton Wick or Windsor. these locations require a car journey for the majority of people. During the spring and summer months up to 200 cattle (inc. calves) are free-grazing on Dorney Common. Walking or cycling through the herds of cattle, especially when their calves are present, can be a daunting experience. Please see Page 108 of our Submission for further details.
2.1.6.	The planning history of the appeal site is set out at Section 3 of the SoCG. A Certificate of Lawfulness was granted on 1 May 2020 to confirm that the existing use of the outbuildings and barns at Boveney Court Farm are in Class B8 storage use (application reference: PL/19/4124/EU) (CD 2.1). The existing buildings on the appeal site and the land that serves them constitute Previously Developed Land (PDL) as defined by Annex 2 of the NPPF (2023). The planning officer's report to committee for the application states at paragraph 5.3 that the planning officer considers the site constitutes previously developed land so therefore it can be assessed against the exception tests at NPPF paragraph 149.	The Certificate of Lawfulness may be factually incorrect. The NPPF states that PDL "excludes: land that is or was last occupied by agricultural or forestry buildings; ". The majority of the land (including the hard standing that is proposed Buildings H&J are built on), and at least two of the buildings were occupied from the early 1990s until 2019 by Landmark Tree Surgery, whose SIC Classification was 02100 - Silviculture and other Forestry business. Please see Page 98 of our Submission for further details.
3.3.1.	The Boveney Conservation Area Appraisal (1996) was not available from the Council's website at the time the planning application was prepared. The Appraisal document was not referred to in pre-application discussions. In the Addendum to the Planning Officer's Committee Report (CD 5.3) it clarifies the Council's Heritage Officer's opinion on the weight that should be given to the Conservation Area Appraisal in the decision making process. The Heritage Officer notes that on page 3 of the Appraisal it states that the District Council would resist further development within the conservation area. The Heritage Officer goes on to say that as the Appraisal is nearly 30 years old and there are current pressures to provide housing that this statement of resistance to development should be "carefully balanced against current need and current policies".	The Bucks Council Planning Directorate, in the Boveney Conservation Area Appraisal, stated on Page 2, Paragraph 2: "...this document is a "material consideration" and will be taken into account when planning decisions are made." Bucks Council failed to provide a copy of this Appraisal or to even to include it as a "material consideration" from the 2018 Pre Application Advice until their Report to the Planning Committee on 13 July 2023. They totally failed to consider the content of this important document at all. The Appellant failed to provide their Agents and other professional advisors a copy of this document which was in their possession from 1996. The failure to consider the Boveney Conservation Area Appraisal as a "material consideration" resulted, in <i>Samuel Smith Old Brewer (Tadcaster) & others v North Yorkshire County Council [2020] UKSC 3</i> in the Supreme Court reaching a determinative view as to the proper approach when considering whether a failure to take into account a material consideration is fatal. Please refer to our separate Section on Page 46 on this catalogue of errors by Bucks Council, the Appellant, their Agents and other professional advisers. Please see Pages 46 and 60 of our Submission for further details.

3.3.2.	<i>It is considered a material consideration in the assessment of the appeal scheme. It provides a helpful description of the character and appearance of the Conservation Area provided that aid the assessment of the scheme's heritage impact. The Appraisal however, is an old document that generally discourages further development within the Conservation Area and pre-dates the NPPF, the development plan and other national best practice guidance; all of which support sustainable development and acknowledge that change should be carefully managed through the planning process. For these reasons the Appraisal carries very limited weight in the decision making process.</i>	Our Section on Page 60, contains evidence from the NPPF and the Supreme Court, why the Boveney Conservation Area Appraisal should be given substantial weight in this instance.
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4 Responses to Reasons for Refusal

The Exceptions Test and the Openness of the Green Belt		
4.2.3.	<i>It is common ground between the appellants and the LPA that the appeal site is comprised largely of PDL so the scheme can be assessed under paragraph 154 g).</i>	With reference to our response to Para 2.1.6. it is questionable whether the Certificate of Lawfulness is valid. If it is not, then the hardstanding on the appeal site is not PDL.
4.2.6.	<i>What follows is an assessment of how the appeal scheme complies with paragraph 154 g). The scheme has been designed considerably within the bounds of existing hardstanding and building footprints on site. Where the scheme comprises of limited infilling, the development has maintained consistency in height with surrounding buildings and visually designed to appear cohesive with the wider scheme</i>	The scheme would increase the footprint of buildings on the site by over 16%. The site comprises largely of low-rise single storey, curtilage listed, farm buildings and a Grade 2 listed barn which are the main heritage assets. Yet all five of the proposed new buildings are higher than all the existing barns, some 57% higher and the others 69% higher than the lowest existing barn. This shows an inconsistency in height with most surrounding buildings, and a visual incoherence with the existing site and its setting. The new buildings would be visible from well outside the site and would block existing public views across the Green Belt through the site. It clearly does not comply with NPPF Paragraph 154 (g).

Physical Openness

4.2.7.	<i>The proposed development would bring some changes to the appeal site but with a focus on preserving the broader landscape and character. In terms of physical openness, while there would be a slight increase in the building footprint, this would be offset by a reduction in hardstanding areas. As set out in the Turley's Hearing Statement on Green Belt Openness (CD 8.3, table 5.2) the appeal scheme would increase the footprint of the buildings on the site by 45.8m² (0.2% increase) but reduce the area of hardstanding on the site by 680m² (3.7% decrease).</i>	A low rise open-sided see-through barn would be demolished, and its footprint used to create five two storey houses, exceeding its footprint by over 16%. The volume (mass) of these five buildings compared to the volume of a full open barn would increase the volume of building by 72%. Compared to a 25% full open barn, this increase in mass would be 588%! This is substantially detrimental to the openness of the site and the landscape in which it sits. Any reduction in hardstanding has largely been achieved by either building on it, creating parking bays, footpaths or the provision of domestic gardens. The garden curtilages (1.8m fences) will also detract from any openness of the site.
4.2.8.	<i>Some concrete surfaces would be replaced with more permeable materials like resin-bound gravel, and parking and bin store areas would feature "grasscrete" or self-binding gravel. The soft landscaping would see an overall increase in area, which would contribute to a slight boost in the physical openness of the site by increasing the area of the site that is free from development.</i>	The replacement of concrete with 'soft landscaping', does nothing for Green Belt openness in itself. Especially when some of that new landscaping is domestic gardens requiring individual privacy fencing 1.8m high. Parking bays, cycle stores and bin stores don't boost physical openness or a sense of freedom from development for the residents or the general public, despite being on a permeable material.
4.2.9.	<i>Most of the proposed residential units are accommodated within existing storage structures or on existing concrete slabs. The appeal scheme increases the volume of the buildings on site by 863.74 m³ (CD 8.3, table 5.2), which is an increase of 15.3%. The increase in volume is created in part by the introduction of a building containing two dwellings on the area of hardstanding at the rear of the former Dairy building. The height of the new building would remain similar to the existing buildings on the site. However, it is acknowledged that the new structure leads to an increase in built form at the rear of the site, but it is considered to make the best use of PDL and any views of the building would be seen against a backdrop of existing mature trees that already provide enclosure.</i>	The proposed building containing units H and J is in no way 'similar to the existing buildings on the site'. In fact, it would become the highest building on the site by over 2 meters! It would be visible from all sides including the Roasthill Lane public footpath running along the north edge of the site and beyond, up to Dorney Common and even from Common Road some way to the north. The building would not be enclosed by trees. Any trees in the location are to its rear, relatively small, deciduous and so, completely bare for a lot of the year. It would loom over neighbouring properties and remove any sense of physical openness by a large degree. It would even impinge on the openness experienced by the residents of the other dwellings on the proposed development. Finally, this area of hardstanding does not appear to be PDL. It has never been built on before. The existing buildings on the site were granted retrospective Change of Use to storage/commercial. But this area isn't and never was a building or structure of any kind.

4.2.10.	<i>The open character of Boveney, a hamlet enveloped by the Green Belt, would remain intact due to the arrangement of built form and the overall settlement pattern.</i>	We concur with Refusal Reason 2 from the Planning Committee: The proposed development, by virtue of the increase in built form on the site, the increase in the number of buildings, and the bulk and massing of the new buildings, would cause substantial harm to the openness of the Green Belt spatially and visually, including when viewed from across the adjacent fields. The proposed development therefore fails to meet any of the exceptions for development allowed in the Green Belt, and as such constitutes inappropriate development within the Green Belt, which by definition is harmful. Harm is therefore caused to the Green Belt by virtue of its inappropriateness, and substantial reduction in its openness. The NPPF sets out that substantial weight should be given to any harm to the Green Belt.
4.2.11.	<i>As shown in drawing titled Proposed Tree & Shrub Planting, Turfing & Seeding (CD 1.34), the proposed tree planting would increase the site's tree canopy cover, mitigating the perceived height and massing of the new dwellings through breaking up areas of hardstanding and contributing to the verdant character of the site.</i>	This conflicts with the Bucks Council statement in the Boveney Conservation Area Appraisal, Page 3, Paragraph 1: <i>"From specific points in the settlement there are attractive views onto the adjacent pastureland with cattle roaming across Dorney Common unhindered by hedges or fences."</i> It should be noted that current and proposed trees are mainly deciduous, so provide no shielding during autumn/winter/spring.
4.2.12.	<i>In conclusion, Turley's Hearing Statement on Green Belt Openness (CD 8.3, para. 5.14) acknowledges there would be a slight change to the spatial characteristics of the appeal site, but the scheme is designed to be contained within previously developed areas, maintaining the open agricultural field and improving landscape features. It would not encroach on the broader Green Belt, serving to preserve the separation between Maidenhead, Slough and Windsor. Additionally, it aims to ensure the long-term conservation of heritage assets and enhance the ecological value of this local Green Belt segment.</i>	This is a factually incorrect statement as the site's spatial characteristics will be substantially changed. It will not be a "slight change". The independent Landscape Characteristic Assessment for the Dorney Floodplain, including Boveney, conducted for Bucks Council in 2011, states the following: <i>"Perceptual/ Experiential Landscape: A low lying, flat landscape, with a strong horizontal form. An open landscape, which contrasts with the surrounding wooded character areas to the north . Repetition of geometric field enclosures and hedgerow boundaries, contribute to an organised and rhythmic landscape pattern Occasional long views and panoramic vistas are provided across open landscape, towards Slough in the north east, and to higher ground in the north and south. There are important views across Dorney Common towards Windsor Castle. Intermittently, field boundaries fragment and limit views within this area. Varying degrees of tranquillity exist within the landscape.....Strategy/ Vision: To conserve and enhance the character of Dorney floodplain, with its important water bodies of important ecological and recreational value and proving a valuable green infrastructure resource. To conserve elements of historic interest and maintain pockets of tranquillity away from overt human influence."</i> Turley's Hearing Statement on Green Belt Openness Para 4.16 states <i>"The pockets of development within this part of the Green Belt (including the Appeal Site), do not make a strong contribution to the visual openness of the Green Belt in this location. Whilst the existing housing and built form on the Appeal Site and within the hamlet of Boveney detract from the openness of the Green Belt at a local level , the surrounding areas of open landscape maintain the open character and visual openness of this area of Green Belt. "</i> The Boveney Conservation Area Appraisal makes a telling point regarding the openness at the Appeal site: <i>"Another key view can be seen when one moves west along Lock Path past Pond Cottage where the road becomes Boveney Road. At this point, there is a surprise view out onto Dorney Common; the enclosure contained in the settlement, opens out into the expanse of the Common. [at Boveney Court Farm]"</i> . The proposed development would cause substantial harm to this "surprise view".

Visual Openness

4.2.13.	<p><i>Turley's visual assessment of the proposed development suggests minimal impact on the existing views from the surrounding area. When approaching Boveney from the north on Boveney Road, new buildings would be mostly concealed by existing vegetation to the north of the site. The proposed building would blend with the existing ones, preserving the area's open qualities. Views from Dorney Common and public rights of way would still be obscured by field boundary hedgerows and vegetation, with occasional glimpses of new buildings that would not significantly change the appearance of the landscape. Over time, new tree planting to the north would reinforce existing landscape characteristics and maintain visual openness. A series of visualisations demonstrating the visual impact of the scheme in longer distance views, and resultant impact on the visual openness of the Green Belt, are attached to the Green Belt Openness Hearing Statement to provide further evidence to the Appellant's case.</i></p>	<p>This subjective opinion by a non-independent advisor is not shared by Dorney Parish Council. The new buildings would not "be mostly concealed" given their excessive mass and, especially, their height. The buildings would not "blend with the existing ones" as they are poorly designed with little or no recognition of the existing buildings in Boveney. The Boveney Conservation Area Appraisal states (specifically about the site) "However, Boveney Court Farm has had an influence upon the character of the settlement by reinforcing the rural nature of the area." The addition of poorly designed modern boxes with many postage stamp sized gardens does not contribute to the character of the area - it simply, undeniably, would cause substantial harm - as the Planning Committee stated after reading the Boveney Conservation Area Appraisal and visiting the site.</p>
4.2.14.	<p><i>In close proximity views, the existing built form would stay the same, with improved conditions for the listed building. New gardens and entrance drives might slightly domesticate views but maintain a rural appearance. The site's soft edge, retained by post and rail fencing and planting, would persist. The proposed development would blend into the existing settlement without obstructing wider views across the Green Belt, preserving openness in the countryside. The open fields within and around Dorney Common, contributing to visual openness, would remain intact. Overall, Turley's Hearing Statement on Green Belt Openness (CD 8.3, para. 5.20) concludes that the development would not have a greater impact on the visual openness of the Green Belt's as the existing development, maintaining the sense of openness in the wider countryside.</i></p>	<p>The Appellant, by stating "New gardens and entrance drives might slightly domesticate views but maintain a rural appearance", appears to be ignoring the bin stores, cycle stores, car parking, new hedges, 1.8m fencing between the gardens and other domestic paraphernalia that will all be introduced. The Design and Access Statement states: Bin stores have been introduced as part of the waste management of the site. Suitable provision has been designed according to the Waste Management Planning Guide of the Joint Waste Team of Buckinghamshire Council. Appropriate space has been provided for 240L wheeled bin for general waste, 240L wheeled bin for recycling, 44L box for paper recycling and 23L bin for food recycling per house. The visual impact of the bin stores is minimised by the use of low-level brick walls and timber fencing [1.8m is not low level] for screening. In terms of cycle stores, private lockable cycle stores will be located in the private gardens of the units. All 2/3 bed units require at least 2 cycle parking spaces and all 4 bed houses at least 3 cycle spaces. The cycle stores shown on the site plan (drawing 5540-1102-F) [surprisingly not included in the list of uploaded plans on planning website!] are based on prefabricated secure and lockable stores that can accommodate up to 3 bicycles. "Slightly domesticate views?" Hardly. The proposed development will certainly not "blend into the existing settlement without obstructing wider views across the Green Belt, preserving openness in the countryside" The development will have a substantial, harmful impact on the Green Belt - as determined by the Planning Committee.</p>

Activity Generated

4.2.15.	<p><i>The proposal would not intensify the site's use, as its transition from storage to residential purposes will result in fewer vehicular movements and negligible impact on the local highway network as set out in the Transport Assessment prepared by Stantec (CD 1.10, pp. 11-16). Turley's Hearing Statement on Green Belt Openness (CD 8.3, para. 5.24) sets out that the appeal scheme would generate a different type of activity than the existing B8 use of the appeal site, this would not have a greater impact on openness.</i></p>	<p>This is factually incorrect. No survey to support this subjective opinion was undertaken by the Appellant which is required per NPPF Para. 117: <i>All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.</i> The average vehicle movements per day during the survey conducted by residents confirmed that the average current vehicle movements/day are around 300. The Bucks Council Senior Highways Officer in 2022 advised that the site would generate up to 72 movements/day. Add to that delivery vans, visitors and utility vehicles and a total of 124 movements/day is reached from the site. This is a 50+% increase on the current total. These are "significant amounts of movement". A transport statement or transport assessment is required. Please see Page 108 of our Submission for further details.</p>
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Conclusion on the Exceptions Test and the Openness of the Green Belt

4.2.16.	<p><i>Turley's Hearing Statement on Green Belt Openness (CD 8.3, para. 7.8) concludes that the modest and carefully designed appeal scheme would not result in substantial harm to the openness of the Green Belt.</i></p>	<p>We have examined this Statement and find it lacking. Our detailed rebuttal is provided on Pages 67 - 83 of our Submission.</p>
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4.2.17.	<i>The appeal proposal includes a financial contribution to affordable housing of 21% of the total homes provided by the scheme and it is agreed with the Council that this is the maximum that is economically viable and is therefore in accordance with Core Policy 3 (Affordable Housing). Given the Council's significant local affordable housing need, this is considered to carry substantial weight in favour of the scheme.</i>	Dorney Parish Council would like to see affordable housing within the parish. we want to attract younger families to the parish to support the community. The problem is that the house prices in the area are not affordable by young families (average sale price last year was £1,047M by Rightmove and Zoopla). A contribution of £218,000 seems on the low side compared to current sale prices. We also cannot see where the Appellant derives the figure of 21% of the total homes provided by scheme.
4.2.18.	<i>NPPF paragraph 154 g) defines the construction of new buildings as appropriate development in the Green Belt where it involves the limited infilling or the partial or complete redevelopment of previously developed land, where it would not cause substantial harm to Green Belt openness and contribute to meeting an identified affordable housing need. The appeal proposal is wholly consistent with exception g) of NPPF paragraph 154.</i>	We have examined a very similar Appeal to this one: APP/Q3630/W/18/3206959 dated 8 February 2019 in Egham TW20 8QJ. Our full assessment is on Page 98. The conclusion in Paras 26 & 27. states: <i>"Taking all these factors into account, I conclude that the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed, either individually or cumulatively, by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policy GB1 of the LP and the Framework that seek to protect the Green Belt from inappropriate development. 27. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed."</i>

Very Special Circumstances

4.2.20.	<i>As the appeal proposal does not harm the Green Belt it is not necessary to demonstrate that 'very special circumstances' exist to justify the proposed development. However, should the Inspector not agree with this assessment, it is considered that very special circumstances has been demonstrated, as set out below at paragraphs 4.2.19-4.2.29 of this Statement.</i>	There was absolutely no doubt in the opinion of the Planning Committee that the appeal proposal causes substantial harm to the Green Belt as the Refusal indicates. We address this issue in detail on Page 6 of our Submission.
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New Market Housing Provision

4.2.21.	<i>The scheme provides 12 high quality market rate homes when only 1.64 years worth of housing sites can be demonstrated in South Bucks for the period of 2022-2027. This uplift in homes when there is such a high demand for them is in accordance with Paragraphs 60 – 68 of the NPPF (CD 4.1) and Core Policy 1 (Housing Provision and Delivery). This is afforded very substantial weight within the planning balance.</i>	Please see Page 84 of our Submission for further details.
4.2.22.	<i>Planning appeals for housing development in the Green Belt have been allowed on the basis of 'Very Special Circumstances', either as housing need itself or as a significant element of such circumstances. This approach has evolved in response to the ongoing housing crisis, with inspectors allowing appeals on Green Belt sites, as seen in these cases: Asher Lane, Ruddington (June 2019) (appeal ref: APP/P3040/W/19/3221123) (CD 7.1.) Station Approach, Lower Sydenham, Bromley, London (June 2019) (appeal ref: APP/G5180/W/18/3206569) (CD. 7.2) Burley-in-Wharfedale, Bradford (November 2019) (appeal ref: APP/W4705/V/18/3208020) (CD. 7.3) Cheadle Hulme, Stockport, Manchester (April 2020) (appeal ref: APP/C4235/W/18/3205559) (CD 7.4) Retirement Village, West Malling (December 2018) (appeal ref: APP/H2265/W/18/3202040) (CD 7.5) Boroughbridge Road, York (October 2019) (appeal ref: APP/C2741/W/19/3227359) (CD 7.6) Land Off Bullens Green Lane, Colney Heath (appeal ref: APP/B1930/W/20/3265925) (CD 7.9) Land Off Bullens Green Lane, Colney Heath (appeal ref: APP/C1950/W/20/3265926) (CD 7.10)</i>	As we show on Page 84 of our submission, we do not agree with the premise that there is a significant housing shortage in the Local Planning Authority area, so these appeals have little or no relevance.

4.2.23.	<i>It is noted that these decisions contrast with the past Written Ministerial Statement from 2015, which suggested that unmet housing needs for the wider population would not typically qualify as very special circumstances. Since the Written Ministerial Statement of December 2015 (WMS) was published, the associated supporting guidance in the NPPG has been taken out. The provision in the WMS has not been included in the NPPF that has subsequently been updated. For these reasons the WMS should be given little weight as a material consideration. In each of the appeal decisions mentioned above, inspectors gave substantial weight to the development's contributions to addressing unmet housing needs.</i>	See our comment above for 4.2.22
4.2.24.	<i>On 14 June 2021 appeals for residential development at Land Off Bullens Green Lane, Colney Heath were allowed based on the 'Very Special Circumstances' that included acute housing delivery shortages and affordable housing needs in two local authority areas, and the proposals offered contributions to address these needs through market, self-build, and affordable housing. This mirrors the situation at the appeal site, where Buckinghamshire Council faces acute housing needs and delivery shortages. The appeal proposal would contribute to meeting this need.</i>	See our comment above for 4.2.22

Affordable Housing

4.2.25.	<i>It is agreed with the Council that there is a significant affordable housing need. The affordable housing contribution of 21% of the total homes provided by the scheme is the maximum that is economically viable and is therefore in accordance with Core Policy 3 (Affordable Housing). The provision of affordable housing is considered to carry substantial weight.</i>	See our comment above for 4.2.22
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Landscape

4.2.28.	<i>The scheme would introduce high quality new landscape features within the appeal site which would comply with landscape guidelines set out in the South Bucks District Landscape Assessment. This is in accordance with NPPF paragraph 180 and Local Plan Policy EP4 (Landscaping) and should be afforded substantial weight within the planning balance.</i>	We note the so-called "high quality landscape features" within the appeal site. It is, of course, a matter of opinion whether the large bin stores, large cycle stores, the 1.8m fences that encircle each house and garden together with yet more hedges (recommended against in the Boveney Conservation Area Appraisal) would qualify as "high quality landscape features" which would add to the openness of the site. We don't think so.
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Conclusion on 'Very Special Circumstances'

4.2.30.	<i>The appeal proposal provides planning benefits where there is precedent for such benefits to be considered to qualify as very special circumstances. Providing these additional planning benefits weighs heavily in the schemes favour in the planning balance.</i>	The appeal proposal, in our opinion, regarding "Very Special Circumstances" is very thin gruel.
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4.3. Reason for Refusal 2

4.3.2.	<i>Before assessing the impact of the appeal scheme on the significance of the Boveney Conservation Area, the nature of its significance should first be defined. Its significance is defined by Richard Brooks within the Appeal Hearing Statement – Built Heritage (CD 8.4). In summary, the conservation area's significance lies in the settlement's preserved rural identity dating back to the 12th century. It contains distinctive high quality older buildings, including listed buildings and it retains its visual relationship to the river. The conservation area is now primarily residential, retaining its agricultural character with green spaces, ponds, and secluded roads. Fencing and vegetation maintain the distinction between the public and private realms amidst the mature landscape.</i>	Agreed. Taken straight from the Boveney Conservation Area Appraisal document.
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4.3.3.	<p><i>This appeal proposal is considered to optimise the number of dwellings on the appeal site through a high quality contextual design for both architecture and landscaping that preserves the character and appearance of the Boveney Conservation Area. The development achieves this through having a layout, scale and appearance that is appropriate to the site and its surroundings.</i></p>	<p>This conflicts with the following statement by Bucks Council in the Boveney Conservation Area Appraisal, Page 35: "However, Boveney Court Farm has had an influence upon the character of the settlement by reinforcing the rural nature of the area." If by "optimising the number of dwellings on the appeal site" means doubling the number of houses in this tranquil, rural hamlet, packing the houses in cheek by jowl to achieve an urban housing density of 21 dwellings/ha, adding new buildings that are 80% higher and 72% more in mass compared to the building they are replacing - then "optimising" this is. However, causing substantial harm to the Green Belt whilst achieving this lofty goal is simply not permitted. See our view on Massing, Height, Footprint on Page 94 and Domestic Paraphernalia on Page 115 of our Submission.</p>
4.3.6.	<p><i>Policy EP3 (The Use, Design and Layout of Development) of the South Bucks District Local Plan (1999) promotes development that is in scale with the surrounding development and has a positive impact on the intrinsic qualities and features of the site. Policy C1 (Development within a Conservation Area) requires development to preserve or enhance important features which contribute to the character or appearance of the Conservation Area and to provide a high standard of design sympathetic to the existing building or site.</i></p>	<p>This appeal proposal does not in any shape or form "preserve or enhance important features which contribute to the character or appearance of the Conservation Area and to provide a high standard of design sympathetic to the existing building or site." The character and appearance of the Conservation Area is clearly and eloquently set out in the Appraisal document. With regard to the new buildings, there is not a single shred of preservation or enhancement in the appeal proposal. To apply a quote from our King to the appeal proposal related to this tiny, centuries old hamlet, this is a "monstrous carbuncle on the face of a much-loved and elegant friend"</p>
4.3.8.	<p><i>The appeal site is partially situated within the designated Boveney Conservation Area boundary. As it is positioned at the northern end of the hamlet of Boveney, the appeal site has a role as a gateway into and out of the Conservation Area from Dorney Common.</i></p>	<p>The existing buildings are all totally within the Boveney Conservation Area, whereas one of the new buildings (H&J) is outside it on non-previously developed land.</p>
4.3.9.	<p><i>The appeal proposal involves retaining all existing buildings on the appeal site, except for the open-sided metal framed barn close to the road that will be demolished and replaced with houses. The Grade II listed building (Barn B) and the existing other L-shaped barn and taller cowshed along with their later attached agricultural additions, would all be renovated and converted from storage facilities into seven residential dwellings. This approach provides for seven dwellings without increasing the footprint or massing of existing built form on the appeal site. It is common ground between the Appellant and the LPA that the sympathetic adaptation and also detailed design and use of materials for the conversion of these historic buildings would preserve, and also to a degree enhance, the character and appearance of the Boveney Conservation Area. This planning heritage benefit includes the retention, repair and reuse of the Grade II listed barn as a designated heritage asset.</i></p>	<p>It may be claimed that it is common ground between the Appellant and the LPA "that the sympathetic adaptation and also detailed design and use of materials for the conversion of these historic buildings would preserve, and also to a degree enhance, the character and appearance of the Boveney Conservation Area." However, the Planning Committee disagreed, as did Dorney Parish Council and all the residents who gave their opinions. How anybody could imagine that five urban housing-estate buildings dumped in full view on a 1 acre site in Boveney preserves and, possibly, enhances the character and appearance of the Conservation Area escapes everyone except the Appellant and Advisors. We would question how the LPA managed to effect a 360 degree turn from their statement in their Pre Application Advice letter of September 2020: "In terms of built form, as discussed, it is my view that the openness of the Green Belt could be adversely impacted upon by buildings H, J, K, L, and M due to the increase in floorspace that they provide, as well as their height, scale and massing, and also the spread of these dwellings. These dwellings are replacing a single existing open sided barn with two separate solid structures, which have a greater height than the existing barn, and are considered to have a greater bulk and massing. In addition to this, the built form on the site would be spread across a greater extent of the site, which adversely impacts upon the openness of the Green Belt. It is important to note that historically demolished buildings are not relevant to the assessment of openness.</p> <p>As such, when assessing the proposal against whether it has a greater impact upon the openness of the Green Belt, then I would currently raise concerns that it does, mainly due to the increase in built form as well as its spread. As discussed however, the threshold for this impact assessment is reduced if a policy compliant level of affordable housing is being provided, as this only requires the scheme to not have a substantial harm to the Green Belt." We await the explanation.</p>

4.3.10.	<i>The appeal proposal includes the construction of two new residential buildings which would closely match the prevailing height of the existing former agricultural buildings on site. The first one provides three new dwellings (known as units K, L and M) and would occupy part of the footprint of the open-sided metal framed barn, to be demolished. This building is located at a generous distance from the existing Grade II listed barn within the site, and also the unlisted L-shaped barn, in order to preserve their individual settings and also the characteristic dispersed pattern of built form.</i>	This is factually incorrect. The height of the new buildings is 81% & 95% higher than the existing open barn that they are replacing. They are 57% & 69% higher than the lowest existing building E. These do not "closely match the prevailing height of the former agricultural buildings on site"
4.3.11.	<i>The second building would provide two new dwellings (known as units H and J) and would primarily occupy the existing hard standing area in the southeast corner of the site. Due to its positioning, orientation, form and scale in relation to the nearby larger cowshed building, this new building would appear as a natural continuation of existing built form on the appeal site, and also integrate well as part of the wider former agricultural complex.</i>	This is factually incorrect. The second building is a number of metres away from Building F - definitely not "a natural continuation of existing built form" . However, it is our contention that this building is not built on Previously Developed Land.
4.3.12.	<i>The Planning Officer's report to the South Area Planning Committee (CD 5.1) states at paragraph 5.66 that the Council's Heritage Officer considers: "... that the siting, layout and detailed design of the proposed new build residential units has been informed by an understanding of the historical development and heritage interest of the grouping and wider site. In particular, the orientation and distance of the new units from the group of former farm buildings would not challenge the traditional farmstead arrangement grouped around a yard. The legibility of the historic farm use and character would retain the setting of the nearby listed buildings and the character and appearance of the conservation area, would be preserved."</i>	We believe that the comments of the Council's Heritage Officer at the time should be seen in the context of her never considering a "material consideration" - the Boveney Conservation Area Appraisal. We provide more detail on this serious matter on Page 60 of our Submission.
4.3.13.	<i>This confirms that during the lifetime of the planning application officers considered the scale and design of the proposed development to be suitable to the character of the conservation area. It is a matter of common ground that the detailed design and use of materials for both of these proposed new residential buildings would be appropriate to the character and appearance of the appeal site and the wider conservation area.</i>	Please see our response to Para 4.3.9
4.3.14.	<i>The proposed location of the two new buildings and the scheme's use of integral landscaping and new planting plays a key role in preserving the conservation area's distinctive character and also its relationship with its wider landscape setting. The proposed buildings would be situated exclusively in areas of the appeal site that already have structures or hard surfaces, ensuring the area within the north of the site beyond the existing sheds / barns remains open green landscape. This approach acknowledges the significance of this northern portion of the site, which marks the boundary between the settlement and conservation area of Boveney and the immediate transition to Dorney Common to the north, just beyond the line of trees and hedges. Locating the proposed buildings here allows the opportunity for enhancing the landscape features on the appeal site.</i>	Please see our response to Para 4.3.9
4.3.15.	<i>The proposal increases the quantity of planting and the overall area of soft landscaping on the site. It prioritises soft boundary treatments and the proposed parking bays are discretely located and use traditional materials. The landscaping plan is designed to resonate with the historical agricultural character of the appeal site. When observed alongside the existing structures on the appeal site, this landscaping scheme would further help to shield or otherwise filter public views of the proposed buildings from within the conservation area or its setting.</i>	Please see our response to Para 4.2.28

4.3.16.	<p><i>In summary, the proposal introduces new buildings on to the appeal site primarily in areas that have previously been developed and through their layout, scale, design and use of materials, will appear as a natural evolution of the existing built form on the site, and also the dispersed settlement pattern of the wider hamlet. Due to its siting, form, scale and the use of landscaping the proposed development would be contained within the perceived settlement area, would not encroach on the open landscape and would continue to be shielded from public views within the conservation area itself. For these reasons the proposed development would respect the character of the existing hamlet and would preserve the character and appearance of the Boveney Conservation Area.</i></p>	Please see our response to Para 4.2.28
4.3.17.	<p><i>The scale and layout of the proposed development are similar to that of the other dispersed settlements within the local area. It is common ground between the Appellant and the LPA that the appeal site is accessible and well connected to local services. In addition, it is also common ground that the proposed development would not have a negative impact on the local highways network, would not negatively impact neighbour amenity, provides a high standard of residential accommodation and that potential flood risk has been mitigated against. For these reasons, the density of the proposed development on the appeal site is appropriate to the character of the existing hamlet and the conservation area.</i></p>	<p>This is factually incorrect. The proposed development is not similar to any of the other dispersed settlements within the local area. Let us turn again to the Boveney Conservation Area Appraisal for some welcome clarity. It states, correctly, "Boveney has a tranquil rural character, and seems to be almost untouched by the development that has spoilt other similar settlements." The site is not easily accessible as it lies down a one kilometer single track rough road, with no passing places. A recent Bucks Council assessment concludes that Dorney Parish "has very few services and facilities and is not considered suitable for major new development". Please see Section V of our Submission for the details. Based on the Bucks Council Senior Transport Officer's estimates of traffic generated from the site, it appears that this could increase the traffic up and down this single track road by more than 40%. This definitely would have a negative impact on the local highways network. The fact that seven windows of building C would look directly into the neighbour's garden might "negatively impact neighbour amenity". Quite how the proposed density of 21 dwellings/ha might be "appropriate to the character of the existing hamlet and the conservation area." where the correct density is 1 dwelling/ha is causing some scratching of heads amongst local residents.</p>
4.3.18.	<p><i>The proposed development complies with NPPF policies concerning the protection of heritage assets. NPPF paragraph 205 requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 sets out that any harm to the significance of a designated heritage asset should require clear and convincing justification and when a proposal would lead to less than substantial harm to heritage significance, the decision maker should weigh any such harm against the public benefits of the proposal overall. As the appeal proposal conserves the Boveney Conservation Area as a whole, and also sustains its significance, it is not necessary to apply the tests as set out in paragraphs 206-208 of the NPPF in relation to heritage harm. However, paragraphs 4.2.17 - 4.2.25 of this Statement sets out the planning benefits of the scheme, which also includes heritage benefits as defined by PPG, but these benefits are provided in addition to a scheme that overall preserves the character and appearance of the Boveney Conservation Area.</i></p>	<p>This is a very subjective and, in our opinion, stretching credulity to breaking point. The designated heritage asset in this case is the Boveney Conservation Area as a whole and the ten listed buildings in it. This proposal does not pass the requirements of Paragraph 205. No clear and convincing justification has been made regarding the harm undeniably made and there are very few, if any, public benefits that can be ascribed to this proposal. The appeal proposal does not conserve the Boveney Conservation Area in any way whatsoever - it simply causes substantial harm. We strongly believe that it is necessary that Paragraph 207 should be addressed in detail. Paragraph 207 states: "Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:</p> <ul style="list-style-type: none"> a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use." <p>It is the opinion of Dorney Parish Council that this proposed development will lead to substantial harm and, therefore, the local planning authorities should refuse consent, in this case by dismissing the appeal.</p>

4.3.19.	<i>The scheme provides new homes in a manner that respects the local character and distinctiveness of the hamlet and conservation area through a contextually-led design approach to architecture and landscape that respects the heritage interests of the site. The appeal scheme is therefore in accordance with Core Policy 8 (Built and Historic Environment) of the Core Strategy and Local Plan policies C1 (Development within a Conservation Area), C6 (Alterations and Extensions to Listed Buildings) and EP3 (The Use, Design and Layout of Development) of the Local Plan.</i>	The proposal fails on just about every count. It does not, in any way, respect the local character and distinctiveness of the hamlet and Conservation Area. One of the members of the Planning Committee summed it up as <i>"The proposed development is not really appropriate for this particular site"</i> .
4.3.20.	<i>For the reasons states above, the scheme optimises the number of new homes on the site whilst preserving the character and appearance of the designated heritage asset of the conservation area.</i>	The word optimise means <i>"to make something as good or effective as possible"</i> . This proposal does not do that to these much loved heritage assets for which we are responsible. The proposal imposes on Boveney a massive development, a 100% expansion of houses, which would have a direct harmful impact on the character, appearance and openness of the Conservation Area.
4.3.21.	<i>In support of this appeal submission, the Appellant's Built Heritage Consultants Turley have prepared an 'Appeal Hearing Statement: Built Heritage', which provides a detailed assessment in relation to the built heritage considerations pertaining to the appeal scheme and site.</i>	We have examined this Statement and find it lacking.

4.4. Reason for Refusal 3

4.4.1.	<i>The third and final reason for refusal relates to the requirement for the affordable housing contribution to be secured.</i>	Please see our comment above in Para. 4.2.17
4.4.2.	<i>It is common ground that the financial contribution of £280,000 towards off-site affordable housing is the maximum amount that is economically viable and it is acceptable. Once a legal agreement has been drafted to secure the financial contribution as a planning obligation then this reason for refusal can be considered resolved.</i>	Please see our comment above in Para. 4.2.17

5 Overall Balance

5.1.	<i>It is common ground that the Council can only demonstrate a housing land supply figure of 1.64 years for the period 2022-2027. The appeal scheme is first assessed against the policies in the development plan and then against paragraph 11 d) of the NPPF.</i>	As stated on Page 84 of our Submission, we find this statement misleading.
5.2.	<i>When assessed against the development plan, the proposal complies with Core Policy 8 (Built and Historic Environment) of the Core Strategy and policies EP3 (The Use, Design and Layout of Development), C1 (Development within a Conservation Area) and C6 (Alterations and Extensions to Listed Buildings) of the Local Plan because it preserves the character and appearance of the Boveney Conservation Area. The proposal does not comply with the element of policy GB1 (Green Belt Boundaries and the Control Over Development in the Green Belt) of the Local Plan, as the policy would resist residential development on this site. As policy GB1 however, conflicts with the NPPF it is considered to be out of date and therefore carries no weight in the assessment of the appeal scheme. It is common ground between the appellant and the Council that the scheme complies with all other relevant policies within the development plan. For these reasons, the appeal scheme accords with the development plan when read as a whole.</i>	The proposal does not appear to comply with a large number of NPPF and Local Policies as we indicate on Page 6.
5.3.	<i>As the Council cannot demonstrate a five year supply of deliverable housing sites the 'tilted balance' is applied under paragraph 11d) of the NPPF. The proposal is first assessed under paragraph 11d)i. and the policies within the NPPF that protect the Green Belt and Conservation Areas provide no clear reason for refusing the proposed development. In fact, the proposed development preserves the openness of the Green Belt and also preserves and to a degree enhances the character and appearance of the Boveney Conservation Area.</i>	No evidence has been provided to support the supposition that the proposed development preserves or enhances the Boveney Conservation Area, nor that it does not cause substantial harm to the openness of the Green Belt.

5.4.	<i>The proposal is then assessed against NPPF paragraph 11 d)ii. under which the relevant test is whether the proposal would cause any adverse impacts that would significantly and demonstrably outweigh its benefits, when assessed against the policies in the NPPF taken as a whole. The appeal scheme causes no adverse impacts and provides substantial planning benefits, including the provision of 12 high quality market rate homes which in itself is afforded very substantial weight within the planning balance.</i>	We believe that the proposal fails NPPF Paragraph 11 and that it should be dismissed as <i>"The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed."</i>
5.5.	<i>The scheme provides substantial planning benefits that weigh in its favour in the planning balance. These are all set out above in the section on 'very special circumstances'. As well as the provision of market rate homes, the benefits include the provision of affordable housing, the repair and future conservation of the Grade II listed barn, the considerable biodiversity net gain, and the high quality new landscape features. As set out above the appeal scheme is in accordance with the development plan when read as a whole and the tilted balance applies. If the inspector however were to reach a different view the benefits are so compelling in this case that they are sufficient to mean that permission should be granted on the basis of material considerations under section 38(6) of the Planning and Compulsory Purchase Act 2004 or the flat balance.</i>	We fundamentally disagree, for the many reasons included in our Submission.
5.6.	<i>As explored within the Appellant's Statement of Case alongside the comprehensive level of material presented as part of both the application and appeal case files, we respectfully request the Inspector to find favour with this proposal and uphold the Appellant's appeal.</i>	We strongly believe that this appeal should be dismissed.

6 Conclusion

6.1.	<i>The appeal scheme optimises the number of new dwellings on the appeal site through a design that preserves the openness of the Green Belt, and also preserves and to a degree enhances the character and appearance of the Boveney Conservation Area. Through an understanding of the local character, the scheme has been designed to provide high quality homes at a sustainable density. It meets an acute shortage of market and affordable housing as well as providing other substantial planning benefits that weigh heavily in its favour in the planning balance. It has been demonstrated that the appeal scheme complies with the relevant policies both within the NPPF and the Local Plan when taken as a whole, and also the relevant statutory duties for the protection of heritage assets.</i>	We disagree.
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Written Submission to the South Area Planning
Committee of Buckinghamshire Council

Planning Application Number PL/22/3562/FA
Boveney Court Farm Boveney Road Dorney SL4 6QG



Figure 1. View from Boveney Court Farm into the settlement from Dorney Common
From the Boveney Conservation Area Appraisal 1996
(Courtesy of Bucks Council Directorate of Planning)

Introduction and Summary

I am the Chair of Dorney Parish Council and a resident of Dorney Parish for 47 years. This submission has been prepared with the assistance of the Dorney History Group.

Our serious concerns regarding the legality of the planning process have been confirmed upon reviewing the 54-page Report to the South Area Planning Committee of Bucks Council for Planning Application Number: PL/22/3562/FA. It appears that the Planning Directorate has failed to consider a document of paramount importance, the Boveney Conservation Area Appraisal, which is required under National and Local Planning guidance. It is not included in the list at Para. 5.0 Policy Considerations and Evaluation on Page 3 of the report in front of you. **It should be.**

Allow me to share the reasons why we firmly believe this document should have been considered for this planning application.

The Boveney Conservation Area Appraisal, an 8-page, 1,720-word document dating back to 1996, was authored by the Bucks Council Planning Directorate. It clearly states its legal significance in the second paragraph, designating it a "**material consideration**" which "**will be taken into account**" when making planning decisions. The document eloquently emphasises the tranquil rural character of Boveney, a settlement that has remained nearly untouched over hundreds of years by the developments that have marred similar areas. It explicitly states that the District Council, now Bucks Council, "**would not want to see further development**" encroach upon its serene ambiance.

Regrettably, it appears that both the Planning Directorate and the Applicant have overlooked this critical document, potentially breaching planning laws. The Appraisal, which highlights numerous reasons **why this planning application is fundamentally flawed**, is an integral part of the decision-making process. These reasons are summarised on Page 3 of our submission.

Hence, it is the strong belief of Dorney Parish Council that the South Buckinghamshire Area Planning Committee has no alternative but **to reject this planning application in its entirety**. We have outlined specific reasons for doing so, in our opinion, on Page 8 of our submission.

Nonetheless, we hold great respect for planning laws and acknowledge our responsibility to preserve and enhance our heritage assets, such as the Boveney Conservation Area. As a result, we are committed to working collaboratively with the Applicant, their Agents, and the Planning Directorate to find a mutually acceptable long-term solution for this site, adhering to the law.

Our intent is not to hinder progress or to oppose change, but to ensure that any developments align with the values cherished by our community for generations. Boveney's unharmed, gentle charm and historical significance are a treasure that must be protected for future generations to enjoy.

Jill Dax

Chair, Dorney Parish Council

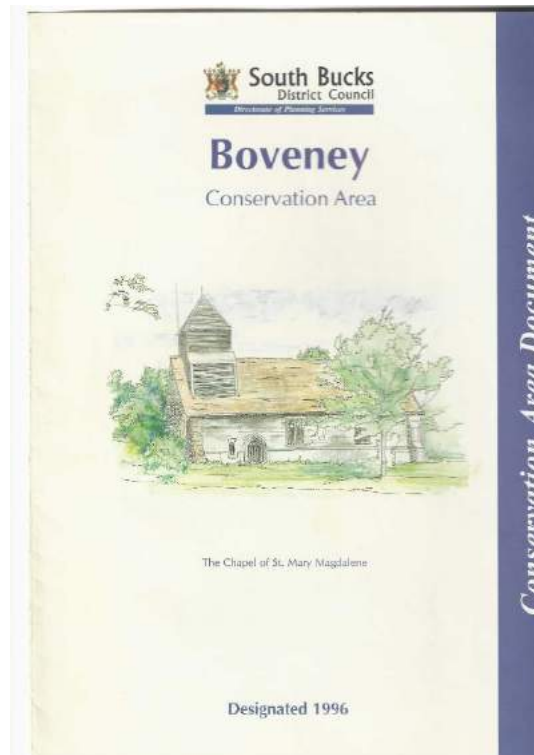
25 July 2023

The legal grounds for considering the Boveney Conservation Area Appraisal Document for this planning application, in our opinion, are as follows:

1. The Boveney Conservation Area Appraisal Document explicitly states that it is a "material consideration" to be taken into account when making planning decisions, alongside the National and Local Plans' policies for development proposals.
2. Statutory provisions within the Planning (Listed Buildings and Conservation Areas) Act 1990 emphasise the importance of considering the **preservation** of listed buildings and the **enhancement of conservation areas**.
3. Despite the comprehensive list of Policy Considerations and Evaluation in the 54-page Report to the South Area Planning Committee, the Boveney Conservation Area Appraisal Document, which is one of the most crucial material documents, is **surprisingly absent**.
4. The National Planning Policy Framework (NPPF) defines conservation areas as designated heritage assets, **demanding great weight** in planning permission decisions. It also emphasises the need for **clear justification of any harm to heritage assets through overriding public benefits**.
5. The NPPF further highlights that local planning authorities should require applicants to **describe the significance of any heritage assets affected**, taking into account available evidence and necessary expertise when determining planning applications.
6. Decision-makers are required to provide **clear and convincing reasons for not following the NPPF if it is considered a material consideration**.
7. The Planning (Listed Buildings and Conservation Areas) Act 1990 specifically mandates local planning authorities to pay "**special attention**" to **preserving or enhancing** the character or appearance of conservation areas when exercising their planning functions.
8. Government and Historic England guidance reinforce the duty of local planning authorities to consider **preserving or enhancing the character and appearance of conservation areas** in their planning decisions.
9. The designation of a conservation area provides broader protection for all features within the area, whether listed or not, recognising their contribution to the area's character and ensuring that planning decisions account for the landscape's overall quality.
10. Local Plan guidance, such as Policy C1 and Core Policy 8, stresses the importance of **preserving or enhancing** important features that contribute to the character and appearance of conservation areas.

In conclusion, the legal basis for considering the Boveney Conservation Area Appraisal Document for this planning application is solid. The document's significance as a **material consideration**, alongside other statutory provisions and national and local planning guidance, underlines the importance of **preserving and enhancing the unique heritage of Boveney**. The absence of this critical document in the planning process raises concerns about the completeness and legality of the evaluation. It is imperative for the Planning Committee to address these issues responsibly to ensure the long-term well-being of our cherished community.

Relevant Content in the Boveney Conservation Area Appraisal Document:



The Boveney Conservation Area Appraisal Document, authored by Bucks Council's Planning Directorate in 1996, offers a comprehensive analysis of the unique character and historical significance of Boveney. The document outlines the special architectural and historic interest that the hamlet possesses and provides essential planning guidance for maintaining its tranquil ambiance and preserving its heritage.

Notable points from the Appraisal Document that have a direct impact on this planning application are as follows:

1. **Introduction:** The document introduces the concept of Conservation Areas and emphasises **the importance of preserving or enhancing areas of special architectural or historic interest**. The appraisal plan showcases the essential buildings, tree groups, open spaces, and views into and out of the settlement.
2. **Conservation Areas:** Under the Planning (Listed Buildings and Conservation Areas) Act 1990, local planning authorities are mandated to designate areas of special architectural or historic interest. **It is the architectural quality and historic interest of the entire area, not just individual buildings**, that is the primary consideration when designating a Conservation Area.

Relevant specific points from the Boveney Conservation Area Appraisal impacting this planning application:

Page	Bucks Council Planning Directorate:	<i>Impact on Planning Application:</i>
2	Figure 1. View past Boveney Court Farm into the settlement from Dorney Common <i>[the second illustration, showing an important view, which should only be preserved or enhanced]</i>	<i>Preserve or Enhance requirement not met. Harm caused.</i>
3	Boveney. “Boveney has a tranquil rural character and seems to be almost untouched by the development that has spoilt other similar settlements . The Council <i>[Bucks Council]</i> would therefore not want to see further development	No development permitted. The application should be rejected.
3	“From specific points in the settlement there are attractive views onto the adjacent pastureland with cattle roaming across Dorney Common unhindered by hedges or fences. ”	No additional trees, hedges or fences.
3	“The majority of the settlement, apart from the open space along Lock Path, is owned by Eton College.”	<i>Eton College [the Applicant], given their ownership, were directly involved in the Appraisal and had knowledge of, and possibly a copy of, the Appraisal. Why did they not disclose it as a “material planning consideration”?</i>
3	“A large proportion of the buildings are listed as being of architectural importance ”	<i>This includes most of the buildings at Boveney Court Farm.</i>
3	A Short History of Boveney. “Recent evidence suggests that there has been a settlement at Boveney since Anglo-Saxon times. References to Boveney are to be found in the Domesday book of 1086 and the settlement is understood to have grown up around the chapel and subsequently Boveney Court.”	<i>One of the most important contributors to the unique character of Boveney is that it has been unchanged for hundreds of years. No harm, to date, has been inflicted on it – and nor should it.</i>
6	Character Analysis. “This section offers a detailed analysis of the special historic and architectural character that Boveney possesses. The analysis focuses upon the features of the settlement which merit protection because of the contribution they make to the special architectural or historic interest. The areas and features considered important are highlighted along with negative features.”	As the features “merit protection” they must either be preserved or enhanced – certainly not harmed.

6	<p>Architectural Character and Coherence of Buildings. “Ten of the buildings, around two thirds of the total, are listed. The vast majority of the buildings are in Tudor style dating from the 16th and 17th Century. The uses of the buildings have also had an influence upon the character of Boveney over the years. Uses have predominantly remained residential. However, Boveney Court Farm has had an influence upon the character of the settlement by reinforcing the rural nature of the area.”</p>	<p><i>Boveney Court Farm (including all of its buildings) must only be preserved or enhanced. They cannot be harmed. The number of buildings certainly cannot be added to.</i></p>
6	<p>“There is a clearly defined period within which the listed buildings were constructed and therefore a similarity in construction type and building materials. This provides visual coherence within the settlement. The strong material theme that runs throughout the hamlet is the 16th and 17th Century construction type; of timber framed, brick nagging, old tile roof with projecting gables and overhanging eaves.”</p>	<p><i>The planning application does not appear to respect the “material theme” on any of the buildings – especially regarding using old tiles, brick nagging, projecting gables and overhanging eaves.</i></p>
7	<p>Hierarchy of Space. There are important open spaces lining either side of Lock Path. These spaces and the associated trees, hedges and landscaping create a linear space through the heart of the settlement linking The Old Place at the eastern end and Boveney Court Farm in the west as well as the properties either side of the road.</p>	<p><i>Again, the Planning Directorate is focussing on the open spaces, specifically mentioning Boveney Court Farm. No additional trees, hedges and landscaping.</i></p>
7	<p>Because of Boveney’s rural nature and the relatively small number of widely dispersed buildings, the settlement has a low density...this rural, low density character is a quality that the Council regards as being worthy of preservation.</p>	<p><i>Boveney currently has 9 residential properties on approx. 25 acres of land. The planning application proposes 12 new houses on approx. 2 acres of land. Clearly not “low density”</i></p>
8	<p>Relationship between the Built Environment and Landscape. A number of key landscape views onto Dorney Common and across to Windsor Castle exist from within the settlement. Another key view can be seen when one moves west along Lock Path past Pond Cottage where the road becomes Boveney Road. At this point, there is a surprise view out onto Dorney Common; the enclosure contained in the settlement, opens out into the expanse of the Common. [at Boveney Court Farm]</p>	<p><i>Once again, the views across Dorney Common from the settlement are shown to be of great importance to the character of Boveney. In this case, the surprise view from outside Boveney Court Farm. No further surprises required here.</i></p>

8	<p>Negative Features</p> <p>One negative feature of the settlement is the group of four semi-detached houses which are sited on the western fringe of the hamlet. The buildings are post 1940's and are out of character with the remainder of the settlement.</p>	<p><i>These were possibly built, or approved to be built, by the Applicant, Eton College.</i></p> <p>No more Negative Features such as these required. Preserve or Enhance. Not Harm.</p>
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Conclusion:

The Boveney Conservation Area Appraisal Document serves as a vital legal, planning, and historical resource. It highlights the significance of preserving and enhancing Boveney's unique character and heritage, emphasising the need to protect open spaces, historical buildings, and landscape views.

Given the content of this document and its clear guidance on preservation, it is evident that the proposed planning application, which may harm the character and historical fabric of Boveney, should be rejected. Upholding the principles outlined in the Appraisal Document is essential to safeguard the tranquil rural ambiance and historical charm of this beloved hamlet for current and future generations.

Why did both of the parties apparently fail to consider this critically important legal Document?

The Dorney History Group, who have a legitimate interest in such planning applications as this, conducted some research to try to understand why such an important legal Document was ignored by both parties – the Planning Directorate and the Applicant. Especially when the Document, written by the Planning Directorate, includes the statement “The Council [Bucks Council] would therefore not want to see further development [in the Boveney Conservation Area]”

1. The Planning Directorate, Bucks Council.

- a. Why did the Planning Directorate, who wrote the Appraisal Document in 1996, not give it due “material planning consideration” as required by law?
- b. Possibly because they had lost or mislaid it. The Dorney History Group, interested in the history and rationale of the document (which we had a copy of in our archives) sent a Freedom of Information request to Bucks Council in early June 2023 requesting some detailed information about both the Dorney and Boveney Conservation Area Appraisals. We received a response, on 29 June 2023, from Joanna Kelly, Information Governance Case Officer, Deputy Chief Executive Directorate, Bucks Council stating:
 - i. We do not hold the information requested; regulation 12(4)(a) of Environmental Information Regulations 2004 applies to your request.
 - ii. Our Historic and Built Environment Manager has confirmed: “This information goes back 27 years. We have searched for paper records relating to this in the archives at King George V House, but we cannot find anything that would answer these specific questions. If we do find anything that would help, I will get back to the individual concerned”.
- c. So, it appears that these important legal documents, together with all supporting documentation, have disappeared. Not very encouraging for the

residents who live in these two Conservation Areas and who are under the impression that such protective documents are being carefully, securely curated by Bucks Council. Nor helpful in the case of controversial planning applications, such as this one.

- d. Both Dorney Parish Council and Dorney History Group can confirm that no request from the Planning Directorate was ever made to either of them for copies of these missing Appraisals. Why was no request made?
- e. This does raise the wider question regarding the other hundreds of Conservation Areas in Buckinghamshire as to whether all of their valuable, legal Appraisal Documents have also been lost/mislaid?

2. The Applicant – Eton College

- a. A contemporaneous report, in the July 1996 edition of Dorney Parish News, contained the following: *“The latest talking point is that, despite strong opposition from Eton College, much of Boveney has been designated a Conservation Area. The College claimed that, as the hamlet was already designated an “Area of Attractive Landscape” and in the “Green Belt” it was sufficiently protected from development. Like Thames Field [the Dorney Lake site]? The College alleged that the District Council were misusing their powers, so more of this may yet be heard”*.
- b. As the owner of the majority of the settlement, Eton College were heavily involved in the Appraisal – and objected to it.
- c. It appears that, in 1996, Dorney Parish Council instigated the Boveney and Dorney Conservation Area Appraisals to strengthen the protection of these areas from further incursion from Eton College, following the refusal and subsequent approval on appeal of Dorney Lake, which the majority of residents were firmly against.
- d. Eton College do not tend to lose documents – as their extensive, online Collections archives demonstrate. Given they almost certainly have the Appraisal Document, why was it not provided to their various Agents?



Figure 4. The 17th Century timber framed barns of Boveney Court Farm
From the Boveney Conservation Area Appraisal 1996
(Courtesy of Bucks Council Directorate of Planning)

The reasons why, in our opinion, this planning application should be rejected by the Planning Committee:

In summary, the Dorney Parish Council urges the Planning Committee to reject the planning application based on the following reasons:

1. Both the Planning Directorate and the Applicant (Eton College) failed to recognise the Boveney Conservation Area Appraisal Document as a crucial "material planning consideration" in the decision-making process. This oversight, now that the document has been brought to light, could potentially lead to a serious breach of planning law if the application is accepted.
2. Despite its legal significance, the Planning Directorate did not disclose, find, or consider the Boveney Conservation Area Appraisal Document in their various submission documents and the final report with recommendations to the Planning Committee.
3. Both parties mentioned the Boveney Conservation Area in their various documents, but attempted to downplay its significance by stating that the site was only "partly" or "partially" within the Conservation Area. In reality, 100% of the current buildings on the site are within the Boveney Conservation Area.
4. The Dorney History Group conducted research to understand why this crucial legal document was ignored. It appears possible that the Planning Directorate lost or misplaced the document, complicating the situation. Additionally, the Group found historical evidence that Eton College, as the majority owner of the settlement, objected to the Conservation Area designation in the past, potentially leading to their reluctance to consider the Appraisal Document now.
5. The lack of response and inability to locate the Appraisal Document, as confirmed by Bucks Council in response to a Freedom of Information request, raises concerns about the handling and preservation of important legal documents related to Buckinghamshire's Conservation Areas in general.

In light of these apparent errors and potential breaches of planning law, the Dorney Parish Council firmly believes that the Planning Committee has no other option but to reject the planning application.

Preserving the unique heritage and character of Boveney Conservation Area is paramount, and it is essential to follow the legal requirements and adhere to the planning guidelines that protect such valuable assets. The Planning Committee's decision will have a lasting impact on our community and its historical heritage.

We trust that the Planning Committee will carefully consider the compelling evidence presented in this representation. Rejecting this planning application will demonstrate the Committee's commitment to upholding the law, preserving our cultural heritage, and ensuring a sustainable and harmonious future for all residents and stakeholders.

Employment Loss and Access Considerations:

In addition to the serious concerns we have already raised regarding the planning process, we wish to underscore our disagreement with the assessment of the current buildings' potential for employment use and access considerations.

Employment Loss:

Dorney Parish Council strongly disagrees with the Applicant's and Planning Directorate's stance on the lack of commercial demand for the buildings' Class B8 usage. We are particularly concerned about the potential conflict of interest arising from both Agents involved in the Market Report being employed by the Applicant. Additionally, the lack of a prolonged period of unsuccessful marketing, using details approved by the District Council, raises questions about the validity of the assessment.

Furthermore, we find it surprising that the Planning Directorate made no attempt to contact the previous tenant to understand the reasons for their departure or to examine the successful transition of Pigeon House Farm at the top of Boveney Road, where several tenants have created a considerable number of new jobs in recent years. Elm Farm in Boveney Road also appears to be a thriving multi-faceted commercial site, providing employment opportunities.

To gain more insight into the demand for commercial use of the buildings and support local employment, Dorney Parish Council contacted the most recent previous tenant, who ran a successful tree surgery business approximately six years ago. He expressed disappointment at being asked to leave the site, emphasising that it was a good location for his business.

As a community, we are committed to promoting local employment and not merely serving as a commuter village for neighbouring areas. To achieve this goal and ensure the best use of available space, a professional and independent marketing process should have been undertaken before granting permission to convert viable light industrial units into commuter housing.

Access:

1. Boveney Road - a Single Lane Track: Dorney Parish Council expresses deep concern over the apparent failure by Highways to accurately assess the seasonal impact of additional site traffic on Boveney Road, a single-track, No Through Road. The road currently accommodates traffic from commercial businesses, government infrastructure, public parking, visitors to St. Mary Magdalene church, and users of equestrian facilities beyond the site.
2. Given the diverse range of users, a detailed 12-month survey should be conducted to gather comprehensive data on traffic patterns and assess the impact of any additional traffic from the proposed development. This evaluation is essential whether the buildings are used for their current B8 designation or preserved through residential usage at a later date.
3. The safety and suitability of Boveney Road as the main access point for the proposed development must be thoroughly examined to ensure the well-being of residents and visitors alike. It is imperative that all relevant facts are gathered through a robust 12 month survey before making any decisions concerning the development.



South Bucks
District Council

Directorate of Planning Services

Boveney

Conservation Area



The Chapel of St. Mary Magdalene

Designated 1996

Introduction

This document focuses on Boveney, a small hamlet in Dorney Parish that was designated as a Conservation Area on 5th June 1996. The text provides a brief introduction to the concept of Conservation Areas and then offers a detailed analysis of the special architectural and historic interest that Boveney possesses. The area appraisal plan on pages 4 and 5 shows the important buildings, tree groups, open spaces and views into and out of the settlement.

Whilst the Local Plan sets out detailed policies against which development proposals will be considered, this document is a "material consideration" and will be taken into account when planning decisions are made.

Conservation Areas

Under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, local planning authorities have a duty to designate areas of special architectural or historic interest, the character or appearance of which they consider should be preserved or enhanced. It is the architectural quality and historic interest of the area rather than of individual buildings, that is the prime consideration when designating a Conservation Area.

Conservation Area designation has the following effects:

- (a) the demolition of a building within a Conservation Area (regardless of whether that building is a Listed Building) will in many cases require the consent of the Local Planning Authority
- (b) there is a lower threshold of "permitted development" rights within a Conservation Area, and therefore development which might not have required planning permission outside a Conservation Area may now require planning permission
- (c) anyone proposing to cut down or carry out work to a tree in a Conservation Area must give the Local Planning Authority 6 weeks notice in writing of his/her intention to do so before actually carrying out the work. Certain trees may be exempt from this requirement.
- (d) once designation has taken place, the Council has a duty to formulate and publish proposals for the preservation and enhancement of the Conservation Area from time to time.



Figure 1. View past Boveney Court Farm into the settlement from Dorney Common

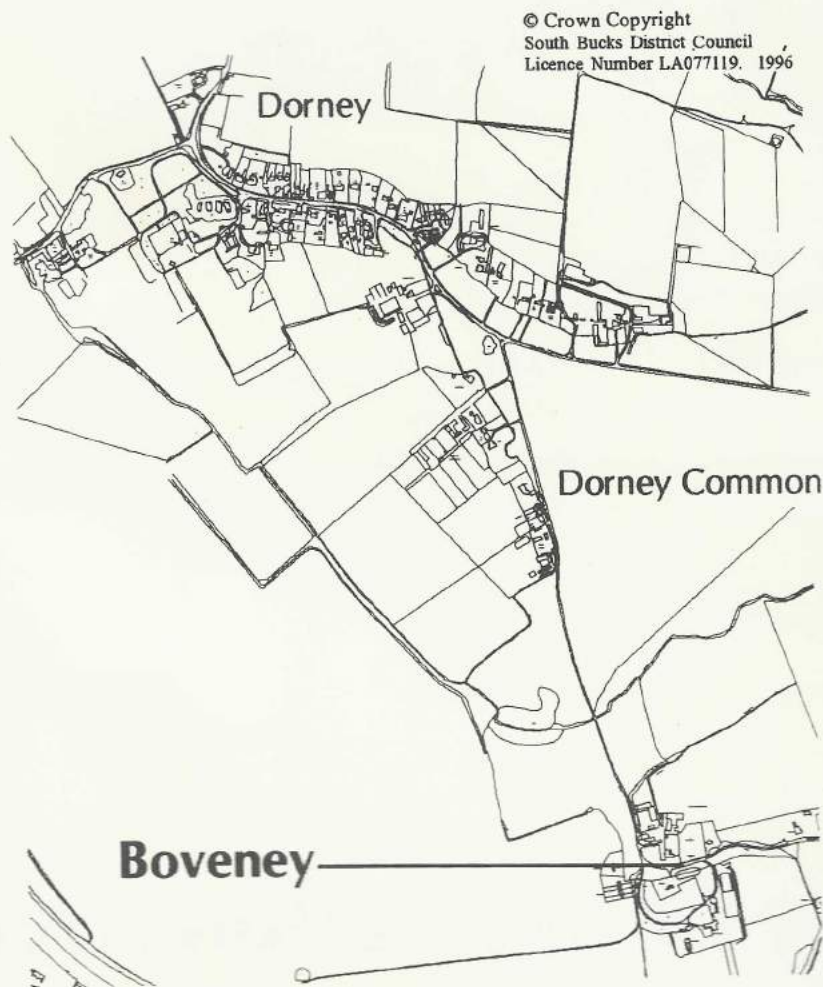
Boveney

Boveney lies to the south of Dorney Common. The settlement is located on the typically flat alluvial flood plain of the River Thames. From specific points in the settlement there are attractive views onto the adjacent pasture land with cattle roaming across Dorney Common unhindered by hedges or fences. Although Boveney contains a church, the settlement can really only be described as a hamlet. The majority of the settlement, apart from the open space along Lock Path, is owned by Eton College.

A large proportion of the buildings are listed as being of architectural importance. Boveney has a tranquil rural character, and seems to be almost untouched by the development that has spoilt other similar settlements. The District Council would therefore not want to see further development or any intensity in the use of the settlement by visitors.

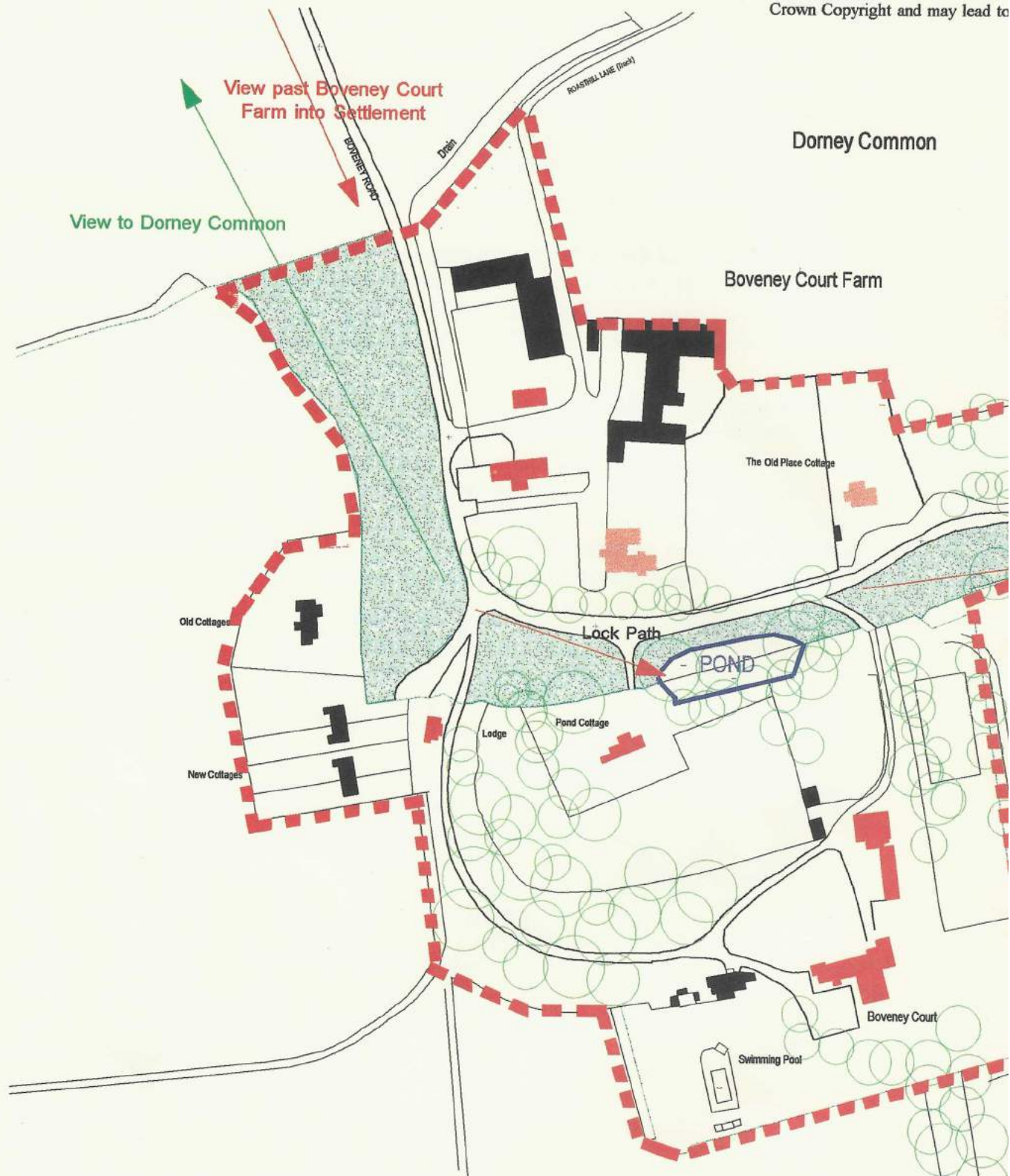
A Short History of Boveney

Recent evidence suggests that there has been a settlement at Boveney since Anglo-Saxon times. References to Boveney are to be found in the Domesday book of 1086 and the settlement is understood to have grown up around the chapel (which served local bargemen, working on the Thames) and subsequently Boveney Court. The chapel of St. Mary Magdalene dates from 1266 and was annexed to Burnham as a chapel of ease.



The Tudor buildings that remain were once part of a larger settlement. During the 16th and 17th Centuries, the hamlet was under the control of the nuns of Burnham Abbey. There are no archaeologically significant sites within the settlement, although there are significant archaeological features surrounding the settlement. It is the archeological remains to the west that point to theory that Boveney was larger than it is today. These remains, only distinguishable from aerial photographs, are thought to be the foundations of the original buildings.

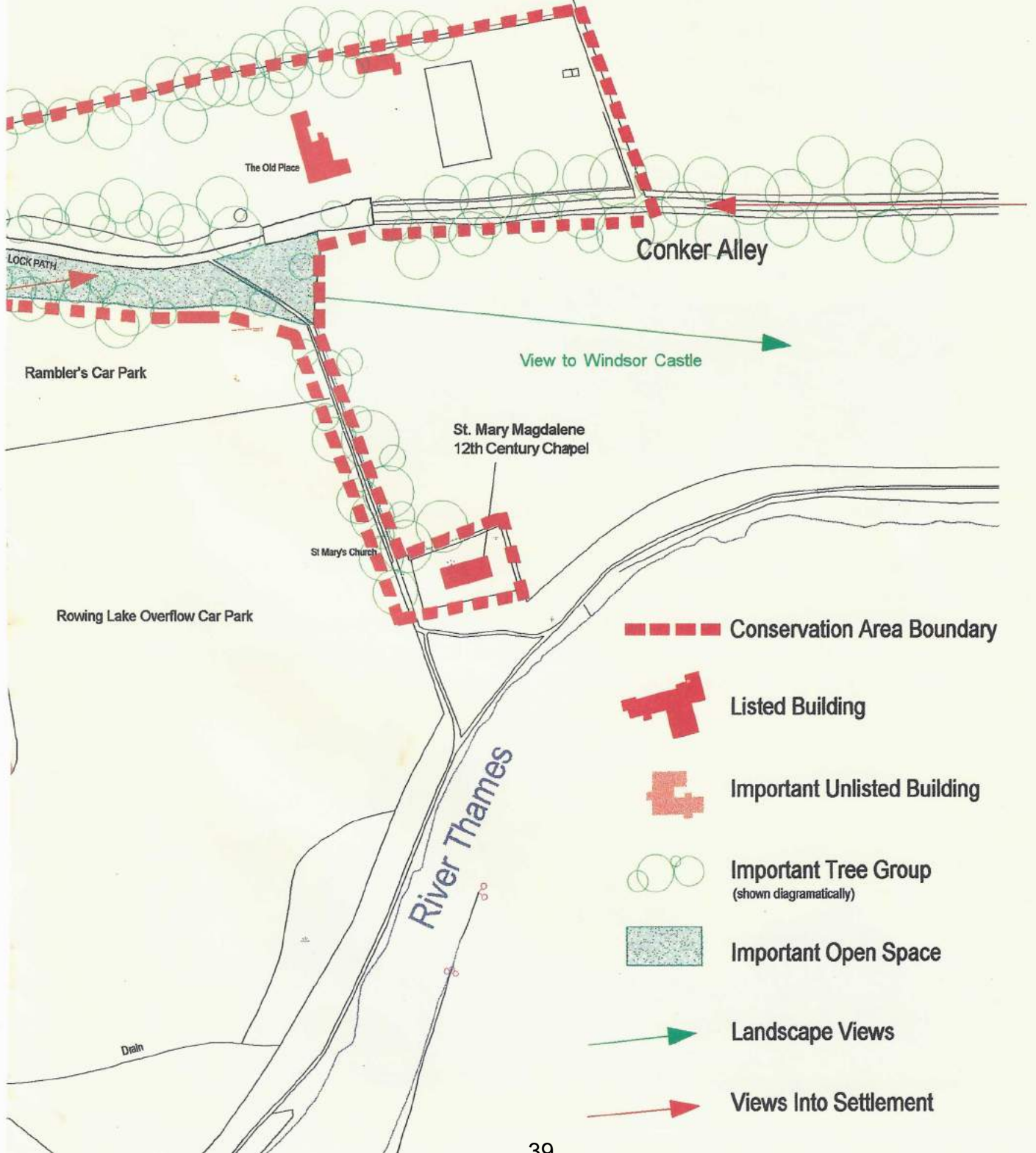
Figure 2. Boveney - Location Plan



Boveney Conservation Area

Appraisal Plan





Character Analysis

This section offers a detailed analysis of the special historic and architectural character that Boveney possesses. The analysis focuses upon the features of the settlement which merit protection because of the contribution they make to the special architectural or historic interest. The areas and features considered important are highlighted along with negative features.

Architectural Character and Coherence of Buildings

Ten of the buildings, around two thirds of the total, are listed. The vast majority of the buildings are in Tudor style dating from the 16th and 17th Century. However, the chapel of St. Mary Magdalene on the eastern fringe of the settlement which dates from the 12th Century, was built of chalk rubble and flint and is listed as a grade 1 building. The uses of the buildings have also had an influence upon the character of Boveney over the years. Uses have predominantly remained residential. However, Boveney Court Farm has had an influence upon the character of the settlement by reinforcing the rural nature of the area.



Figure 3. The Old Place dates from the 16th Century and was converted from 5 or 6 cottages.

There is a clearly defined period within which the listed buildings were constructed and therefore a similarity in construction type and building materials. This provides visual coherence within the settlement. The strong material theme that runs throughout the hamlet is the 16th and 17th Century construction type; of timber framed, brick nogging, old tile roof with projecting gables and overhanging eaves.



Figure 4. The 17th Century timber framed barns of Boveney Court Farm

Hierarchy of Space

There are important open spaces lining either side of Lock Path. These spaces and the associated trees, hedges and landscaping create a linear space through the heart of the settlement linking The Old Place at the eastern end and Boveney Court Farm in the west as well as the properties either side of the road. Because of Boveney's rural nature and the relatively small number of widely dispersed buildings, the settlement has a low density. Consequently, there is little in the way of townscape views, nevertheless, this rural, low density character is a quality that the District Council regards as being worthy of preservation.



Figure 5. Open Space along Lock Path with Pond Cottage in the background

Trees, Hedges and Landscaping

The elements that provide linkage between the buildings are the mature trees (mostly native species, including Ash, Willow and Oak) that line either side of the road. These also assist in creating a form of enclosure. Without the trees, the buildings would not be brought together to form a collective entity. Conservation Area designation provides extra protection for these important tree groups.



Figure 6. The Pond on the southern side of Lock Path provides a spatial focal point for the settlement

Much of the incidental soft and hard landscaping along Lock Path is of an informal nature (i.e. no pavements, kerbing or street furniture etc.). This is particularly true of the grass verges and the pond which seem to have remained unchanged since their creation. These elements are an important part of the character of the settlement. The pond on the southern side of Lock Path is a key element, and provides the settlement with a spatial focal point.

Relationship between the Built Environment and Landscape

A number of key landscape views onto Dorney Common and across to Windsor Castle exist from within the settlement. Another key view can be seen when one moves west along Lock Path past Pond Cottage where the road becomes Boveney Road. At this point, there is a *surprise* view out onto Dorney Common; the enclosure contained in the settlement, opens out into the expanse of the Common.

When one enters Boveney from the east of the settlement, there are important views through the tree lined avenue (locally known as conker alley) to the chapel of St. Mary Magdalene and 'The Old Place'. Large buildings including 'Boveney Court' and 'The Old Place' can be seen from the Thames footpath and Dorney Common respectively.



Figure 6. 'Conker Alley' is an important link between the settlement and the surrounding landscape

Negative Features and Other Factors

One negative feature of the settlement is the group of four semi-detached houses which are sited on the western fringe of the hamlet. The buildings are post 1940's and are out of character with the remainder of the settlement. They do however have the positive effect of providing a certain amount of enclosure and form a back drop to the western end of the settlement.



South Bucks
District Council

Directorate of Planning Services Council Offices Windsor Road Slough SL1 2HN Tel: 01753 533333

Addendum Report to South Area Planning Committee 25 July 2023

Application Number: PL/22/3562/FA

Proposal: Demolition of open sided barn; conversion, alteration and change of use of existing buildings to Use Class C3 to provide 7 residential units and construction of 5 new residential units; hard and soft landscaping, attenuation pond, bin and cycle stores, car parking, infrastructure and associated works.

Site location: Boveney Court Farm Boveney Road Dorney Buckinghamshire SL4 6QG

Bucks Council Content provided at the beginning of the South Area Planning Committee Meeting	Comments from Dorney Parish Council
<i>Further representations have been submitted by Dorney Parish Council, since the publication of the committee report, and it is understood that these have already been circulated to Members. Along with commenting further on matters relating to Access and Employment, the main issue and comment raised by the Parish Council is the lack of consideration of the 'Boveney Conservation Area Appraisal' document in the assessment of the proposals by both the applicant and the Local Planning Authority.</i>	The statement by Bucks Council in the Introduction of the Boveney Conservation Area Appraisal states "Whilst the Local Plan sets out detailed policies against which development proposals will be considered, this document is a "material consideration" and <u>will</u> be taken into account when planning decisions are made." The fact that it was not considered is the responsibility of Bucks Council Planning Department.
<i>In response to this concern, Officers have sought clarification and comment from the Councils Heritage team. A full copy of their response is attached to the end of this Addendum Report. In summary, the Heritage team have advised that it is unlikely that the Boveney Conservation Area Appraisal would have been taken into account in the assessment by the Heritage Officer dealing with the matter, as a result of its lack of availability.</i>	We submit that, over a five year planning process, the Bucks Council Heritage Officer, in her professional capacity, should have taken steps to find the document.
<i>However, the Heritage Officer has clearly considered the character of the Conservation Area within her comments, advising that the proposals would preserve its character and appearance.</i>	As she was not aware of the "character" of the Conservation Area, having not read the Appraisal, how was she able to professionally advise that the proposals would preserve the "character"?
<i>Further to this, they advise that whilst the 'Appraisal'(page 3) may indicate that 'The District Council would therefore not want to see further development ...', this is a document that is nearly 30 years old, and the current pressures to provide housing require this kind of statement to be carefully balanced against current need and current policies.</i>	As the members of the Planning Committee pointed out to the Officers, it is a valid, legal document as there had been no attempt by Bucks Council to update it. The NPPF in Para 225 states: "However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." It is our view that the Boveney Conservation Area Appraisal is consistent with the Framework.
<i>The NPPF para 206 states that: 'Local Authorities should look for opportunities for new development within Conservation Areas ... to enhance or better reveal their significance Proposals that preserve those elements of setting that make a positive contribution ... should be treated favourably'.</i>	It is our belief that this new development does not enhance, preserve or make a positive contribution to the Conservation Area and no evidence has been provided to confirm that it does. Plenty of subjective statements - but no evidence.
<i>Additionally, Historic England's Advice Note 1 'Conservation Area Appraisal, Designation and Management' published Feb 2019 states that: Change is inevitable, but requires careful management and that Local distinctiveness can inspire well designed new development.</i>	There is not sufficient space in this paper to provide the countless statements from Historic England regarding preserving or enhancing Conservation Areas, which are lacking in this planning application.
<i>The Heritage Team consider that the Council have properly taken into account the impact of the proposal on the character and appearance of the Conservation Area, and that even if the 'Appraisal' document had been taken into account, when balanced against more up to date policies and guidance, the recommendation and acceptability of the scheme would remain unchanged from that which has currently put forward.</i>	The heritage assessment of the Heritage Officer for the 10 Mobile Horse Stables does not support this statement - in fact it directly opposes it.

<p><i>The applicant has been provided with a copy of the further representations from the Parish Councils and in response to this specific concern, they have advised that they consider that the Heritage Statement prepared by Turley Associates, and submitted in support of the application, provides a full assessment of the significance of the listed buildings affected by the application proposal and the impact of the scheme on them and Boveney Conservation Area. They advise that the methodology used in the submitted Heritage Statement has not been criticised by the Council's Conservation Officer, and the assessment undertaken is considered to be robust.</i></p>	<p>The Appellant may take that view. Without a copy of the Appraisal it is very difficult to understand how the professional adviser could provide a "full assessment of the "impact of the scheme on them and the Boveney Conservation Area."</p>
<p>Email from Joanna Horton to Richard Regan</p>	
<p><i>It is not my intention to provide a further assessment on the acceptability of the proposal at this late stage. This has been provided by other Officers and as such I have confined my comments to refer to our knowledge of the 1996 CA Appraisal document and how we would approach a document of this age in the light of current policies and guidance.</i></p>	
<p><i>As background - we are very aware that the information passed onto us as a Unitary Authority in respect of Conservations Areas for the legacy CSB areas is patchy, largely out of date and often poor in quality. As a Heritage Team we are currently carrying out a prioritisation exercise for review of the Counties 179 CAs including Boveney. As resources are exceedingly limited efforts are being focused on the larger towns which will potentially be impacted by allocated development sites coming forward as part of the new Plan for Bucks and those impacted by Regen projects.</i></p>	<p>As stated, neither the Planning Committee nor us believe that the Boveney Conservation Area Appraisal "is patchy, largely out of date or poor in quality". If it is, it is the responsibility of the Planning Department to have updated it. Otherwise it remains in date and valid. The Bucks Council resource availability is not of great importance as, nowadays, volunteers from local heritage groups do most of the work. The Dorney History Group and others would be very willing to do the donkey work.</p>
<p><i>With regard to Boveney CA- the Council hold a map of the designated CA boundary which is available on the website and which would have been accessed by Fiona West when making her comments on the application and by the previous Conservation Officer who contributed to Pre-app discussions. None of the current team were aware of additional paper records or a CA appraisal document for Boveney as far as I can gather, and it is therefore unlikely that Fiona (who is no longer acting as a consultant for the Council) would have had the benefit of access to this.</i></p>	<p>We find it extremely bizarre that a professional Heritage Officer would not move heaven and earth to find a copy of the document - given the apparent character and age of the location. A simple phone call to the Parish Council Clerk would have produced it.</p>
<p><i>That said, there is no publication or adoption date on the version of the document included in your email and as such I can only assume it dates to 1996 (the date the CA was designated). Legally CAs can be designated without an appraisal document so it could have been prepared /adopted later- the rear cover may provide further clues.</i></p>	<p>There is, and always has been, a publication date on the cover - Designated 1996.</p>
<p><i>Although the copy document included in the Parish submission appears to be the definitive document on the character of the CA, the age of the document highlights the problem we have in relation to so many of the appraisals being out of date and potentially inconsistent with the current situation on the ground in respect of both the special character and condition of the CA (which is the aspect protected under legislation), and also that these old documents were prepared under now superseded policy frameworks.</i></p>	<p>It is the responsibility of Bucks Council to consider a legal "material consideration" and to ensure that it is kept up to date.</p>
<p><i>Fiona has clearly considered the character of the CA in her comments and states: 'In particular, the orientation and distance of the new units from the group of former farm buildings would not challenge the traditional farmstead arrangement grouped around a yard. The legibility of the historic farm use and character would retain the setting of the nearby listed buildings and the character and appearance of the conservation area, would be preserved.' FW comments 22.11.2022</i></p>	<p>The new units totally dwarf the retained buildings and would seriously challenge the farmstead setting, in our opinion.</p>

<p><i>She confirms in her assessment that 'The proposals would preserve the character and/or appearance of the conservation area and therefore complies with section 72 of the Act.' In her comments dated 24.02.2023.</i></p>	<p>They do not.</p>
<p><i>I note that the CA Appraisal document states that 'The District Council would not want to see any further development or any intensity in the use of the settlement by visitors.' I would suggest that the current pressures to provide housing require that this kind of statement would need to be carefully balanced against need and current policy. The NPPF para 206 states that: 'Local Authorities should look for opportunities for new development within, Conservation Areas ... to enhance or better reveal their significance</i></p>	<p>It is our belief that this new development does not enhance, preserve or make a positive contribution to the Conservation Area and no evidence has been provided to confirm that it does. Plenty of subjective statements - but no evidence.</p>
<p><i>Note 1 'Conservation Area Appraisal, Designation and Management' published Feb 2019 states that: Change is inevitable, but requires careful management and that Local distinctiveness can inspire well designed new development.</i></p>	
<p><i>I have not looked in detail at the application due to the limited time available to me following your request this morning and the need to balance other workloads, but my understanding is that while 12 new dwellings are proposed only 5 of these are created through new construction and that Fiona has identified heritage benefits to securing the long term preservation of listed barns that could otherwise fall into disrepair and disuse. Fiona is a highly qualified and well respected professional who has undertaken an assessment of the application and the character of the designated CA based on the information made available to her and has drawn her conclusions on that basis. She is always thorough in her assessments and regularly tends towards a cautious approach in her recommendations.</i></p>	
<p><i>It is highly unfortunate that the CAA is not available on line and we would be very keen for the Parish to provide an original copy of the document to us so that it can be properly scanned and uploaded for future reference and consideration.</i></p>	<p>Done.</p>
<p><i>I hope this helps to clarify scenarios where we might perhaps take a different view than that identified within a CA appraisal document of this age, and I do apologise on behalf of the Heritage team for the incomplete information that is currently available online to the public and Planning staff.</i></p>	

Failures of Curation and Research: Implications for this planning application and appeal.

In the critically important realm of planning, meticulous curation of historical documents and thorough research form the bedrock of informed decision-making. However, revelations regarding the loss or misplacement of the crucial Boveney Conservation Area Appraisal document by the Planning Directorate at Bucks Council raise serious concerns about the integrity of planning processes. This Section assesses the implications of these failures of curation and research, particularly in the context of legal obligations and professional responsibilities.

Absence of Material Planning Consideration

The Planning Directorate's failure to accord due "material planning consideration" to the Boveney Conservation Area Appraisal Document from 1996, as mandated by law, is a matter of grave concern as we pointed out in our original Submission to the Planning Committee. Despite the legal obligation to incorporate conservation area appraisals into planning decisions, the apparent loss or misplacement of this document undermined the integrity of this planning process.

Legal Obligations and Retention of Documents

The Town and Country Planning Act, alongside associated regulations, emphasises the importance of considering material planning considerations in decision-making processes. Additionally, the Local Government Act 1972 outlines the requirement for local authorities to make proper arrangements for the custody and preservation of documents. However, the failure to retain and access crucial documents, such as conservation area appraisals, indicates a significant lapse in compliance with these legal obligations.

Appellant's Role and Responsibilities

The involvement of key stakeholders, such as the Appellant, in the "lost appraisal" process underscores the gravity of the situation. A contemporaneous report, in the July 1996 edition of Dorney Parish News, contained the following: *"The latest talking point is that, despite strong opposition from Eton College, much of Boveney has been designated a Conservation Area. The College claimed that, as the hamlet was already designated an "Area of Attractive Landscape" and in the "Green Belt" it was sufficiently protected from development. Like Thames Field [the Dorney Lake site]? The College alleged that the District Council were misusing their powers, so more of this may yet be heard"*.

Despite the likelihood of the Appellant possessing the Appraisal Document, their failure to provide it to their advisers raises questions about their commitment to transparency and accountability in this matter.

Professional Advisers' Oversight

The failure of professional advisers, including Savills and Turley Heritage, to undertake the necessary research and due diligence regarding this document is deeply concerning. Their failure to seek out the missing Appraisal Document, despite its critical relevance to the planning process, during the five year planning process, calls into question their competence and professionalism.

Rather, retrospectively, as the Appraisal completely undermined the case for the Appellant, they decided to question the worth of the Appraisal, claiming it to be “outdated” and overridden by more recent government policies.

In the case of Savills, this novel “outdated” approach appears to be becoming a regular go-to of theirs when a Conservation Area Appraisal doesn’t suit their, or their client’s, wishes. Amongst a small handful of agents and developers who have attempted to use this tactic over the years throughout the country, they used it in an attachment to a [letter to the Royal Borough of Windsor and Maidenhead in 2020](#), regarding the Eton Conservation Area Appraisal (2009) which appeared to be getting in their client’s way. [Item 6. Issue 5. Para 4.] *“The near total inclusion of the entire built up area within the Eton Conservation Area, supported by **an outdated Conservation Area Appraisal which fails to adequately recognise and support opportunities for intensification of development within the tolerance of the provisions of the Town & Country Planning (Listed Buildings and Conservations Areas) Act 1990...**”*. It didn’t have the desired effect in that instance, nor should it, we believe, in this one.

Implications for Decision-Making

The disregard for essential documents and the lack of proactive research by both the Planning Directorate and professional advisers have far-reaching implications for this planning application and appeal decision-making. The failure to consider relevant historical appraisals and the attempts to discredit their significance based on their purported "outdated" nature raise doubts about the integrity and impartiality of the planning process.

Dorney Parish Council Comment: In conclusion, the loss or misplacement of a crucial document, the Boveney Conservation Area Appraisal, coupled with the failure of key stakeholders and professional advisers to fulfil their responsibilities, undermines the trust and confidence in the planning process.

Fortunately, the Planning Committee took their responsibilities seriously and took the time, in a short period, to both read the Appraisal and, in some cases, to revisit the site. Their 6-1 decision to refuse the application was, as they said, partly due to Dorney Parish Council producing a copy of this document, which has always been in our files.

Evidence that the availability of the Boveney Conservation Area Appraisal had a significant impact on two recent planning decisions.

The two planning decisions were:

1. The Boveney Court Farm Buildings planning application PL/22/3562/FA – this one.
2. The Boveney Court Stables Boveney Road Dorney application [PL/23/2700/FA](#) for 10 mobile stable boxes, 100m distance from the first planning application. The Heritage Officer's response of 17 October 2023, 3 months after the Boveney Conservation Area Appraisal was provided to Bucks Council by us.

Both decisions were Refusals.

1. The Planning Committee: Refusal Decision

When the Planning Committee read the 1996 Boveney Conservation Area Appraisal, provided by us a few days before the Planning Committee Meeting, some of them revisited the site to better understand its contents and importance. Considerable discussion on the Appraisal took place at the Planning Meeting, mainly focussed on the fact that it was not outdated, Bucks Council had not decided it needed to be updated – so it wasn't and was still valid. It was also pointed out by one member that it was a legal document and had not been considered in the planning process.

Their conclusions resulted in the 6-1 vote for Refusal. Their relevant comments in the Refusal were as follows:

The application site predominantly falls within the Boveney Conservation Area. The Boveney Conservation Area Document notes that Boveney has a tranquil rural character and seems to be almost untouched by the development that has spoilt similar settlements.

Furthermore, it highlights that the hamlet has a rural, low density character which is worthy of preservation. The size of the proposed development, including the number of dwellings and its overall density, would be out of character within the context of the rural, low density character of the existing hamlet and it would therefore fail to preserve or enhance the character and appearance of the Boveney Conservation Area. The public benefits of the scheme do not outweigh the harm that would be caused to the conservation area. As such, the proposal is contrary to policies EP3, and C1 of the South Bucks District Local Plan (adopted March 1999), CP8 of the South Bucks Core Strategy (adopted February 2011), and the provisions of the NPPF

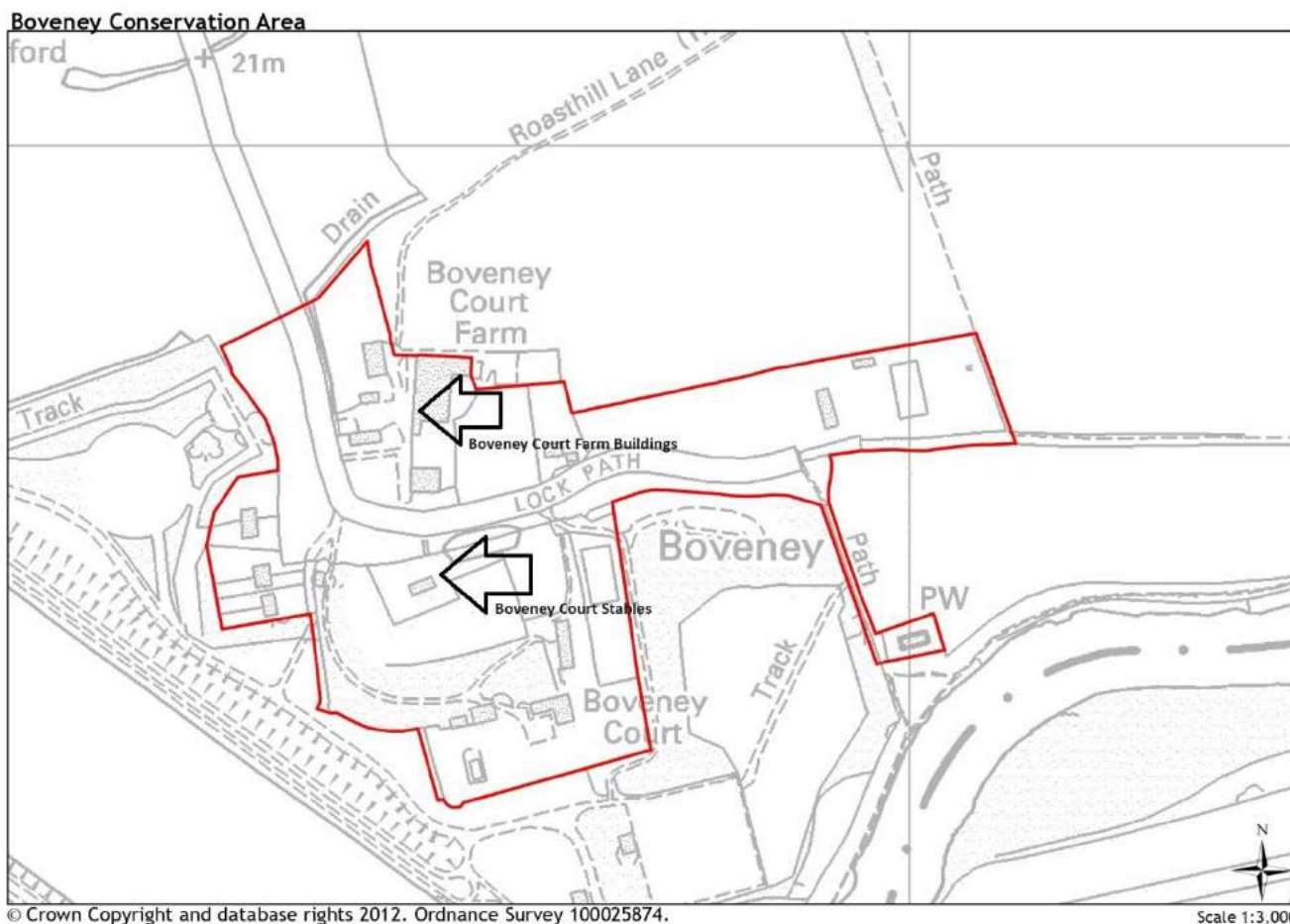
2. The Boveney Court Stables refusal on heritage grounds:

SCHEDULE OF REASONS FOR REFUSAL

1. The proposed development, by virtue of its siting, scale and choice of material, would adversely impact upon the character and appearance of the Boveney Conservation Area, as well as setting of the adjacent listed buildings, namely Pond Cottage, Boveney Court, and Boveney Court Stables, and the setting of Boveney Court park and gardens, which is considered a non-designated heritage asset. As such, the proposal would fail to preserve or

enhance the significance of these designated and non-designated heritage assets. The public benefits of the scheme do not outweigh the harm that would be caused to these identified heritage assets. As such, the proposal is contrary to policy C1 of the South Bucks District Local Plan, CP8 of the South Bucks Core Strategy (adopted February 2011), and the provisions of the NPPF (section 16 - Conserving and enhancing the historic environment).

The locations of both proposals:



Here follows a comparison of both of the Heritage Officers' comments on the two planning applications by same Applicant: Eton College, the first before, and the second after, the Boveney Conservation Area Appraisal was made available to Bucks Council Planning Department. The locations are less than 100m apart within the Boveney Conservation Area.

	Heritage Officer response, before Dorney Parish Council provided the Boveney Conservation Area Appraisal.	Heritage Officer response, after Dorney Parish Council provided the Boveney Conservation Area Appraisal.
Date:	22 November 2022	17 October 2023
Application reference:	PL/22/3562/FA	PL/23/2700/FA
Heritage Officer:	Fiona Webb, MRTPI, IHBC	Nicola Bishop BSc (Hons) MSc MRICS
Site:	Boveney Court Farm buildings Boveney Road Dorney	Boveney Court Stables Boveney Road Dorney
Proposal:	Demolition of open sided barn; conversion, alteration and change of use of existing buildings to Use Class C3 to provide 7 residential units and construction of 5 new residential units; hard and soft landscaping, attenuation pond, bin and cycle stores, car parking, infrastructure and associated works	The erection of 10 mobile stable boxes with a tack room and associated works.
Summary:	As the NPPF states, heritage assets are an irreplaceable resource and it is important to conserve them in a manner appropriate to their significance. Further details and amendments are as such required.	As the NPPF states, heritage assets are an irreplaceable resource, and it is important to conserve them in a manner appropriate to their significance. For the reasons given below it is felt that in heritage terms the application does not comply with the relevant heritage policy and is not acceptable.
Heritage Assets:	Barn B of Farmyard, Boveney Court Farm – Grade II listed building Buildings C, D & E are also considered curtilage listed structures of Boveney Court Boveney Conservation Area	Conservation Area (CA) – Designated Heritage Asset – Boveney Conservation Area Listed Building (LB) - Designated Heritage Asset – setting of Boveney Court, & Pond Cottage, Barn on North side of farmyard

	<p>The above are designated heritage assets</p>	<p>at Boveney Court Farm, The Lodge and entrance gates – grade II. Boveney Court Designed Park and Garden – Non-Designated Heritage Asset (NDHA)</p>
<p>Discussion: (Comparable)</p>	<p>The site contains one Grade II listed building (Barn B) and also falls partially within the boundary of the Boveney Conservation Area. There is a further listed building (Grade II) within the setting of the site, as part of the former farm complex at Boveney Court Farm. As such the proposed redevelopment of this former farm complex, including proposed new residential uses, works of alteration to retained buildings and also new build, would therefore affect the significance (directly) and setting (indirectly) of each of these designated heritage assets.</p> <p>In total there would be 12 new residential units provided.</p> <p>In heritage terms, I have no objection to residential use in principle as this relates positively to the established historic use of the former focal farmhouse to this grouping immediately to the south of the site boundary, and also to the now prevailing and dominant use of the wider conservation area and hamlet at Boveney. This change of use is also a means by which the listed barn and other associated historic buildings can be retained</p>	<p>Considerations:</p> <p>This heritage assessment is on the impact of the development on the character and appearance of the conservation area and on the setting of the nearby listed buildings. Along with any impact on the non-designated heritage asset of which the application site is within.</p> <p>The Proposal:</p> <p>The construction of 10 stables with tack room, hay store, along with an area to be in permeable block paving and surrounded in a new timber post and rail fence. The driveway will be upgraded with a grid cell system filled with topsoil and seeded with grass.</p> <p>Significance:</p> <p>The hamlet has a number of scattered 16th and 17th century timber framed cottages. Boveney Court is set in its own grounds 15th and 16th century with many outbuildings. The significance of Boveney is that it has remained mainly undeveloped, as illustrated by the historic mapping. Around two-thirds of the buildings in the hamlet are listed, with the chapel, set to the right-hand side of the village, St Mary Magdalene dates from the 12th</p>

	<p>and repaired in active use in the interest of their future conservation.</p> <p>Overall, the siting, layout and detailed design of the proposed new build residential units has been improved and informed by an understanding of the historical development and heritage interest of the grouping and wider site. In particular, the orientation and distance of the new units from the group of former farm buildings would not challenge the traditional farmstead arrangement grouped around a yard. The legibility of the historic farm use and character would retain the setting of the nearby listed buildings and the character and appearance of the conservation area, would be preserved.</p>	<p>century and is listed as grade I. The outbuildings to the north, known as Boveney stables, are 18th century part timber framed, grade II. Whilst Pond Cottage is 17th timber framed part colour-washed with told tiled roof.</p> <p>Boveney is flat alluvial flood plain of the river Thames with attractive views into the settlement and landscape views. There are important open spaces and landscaping in the heart of the settlement and because of the small number of buildings in the hamlet the settlement has a low-density character.</p> <p>The ground to Boveney Court is 19th century park and garden and highlighted through the planning process as a NDHA with its wooded parklands and formal gardens around the house, park with gate lodge.</p> <p>Proposal</p> <p>The proposal is for the construction of two blocks of stables, one group of six and the other of four with attached tack room, detached hay store along with a mobile mess cabin for the handlers.</p> <p>Response</p> <p>Conservation Area</p> <p>The site is currently used as open field/paddock, heritage is concerned on the impact of the built development on openness of this area. The spatial balance in the CA would be diminished by the loss of the open space upon</p>
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		<p>which the development site would stand. Openness is an essential character of the CA, in particular this area.</p> <p>Special attention should be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The proposal would harmfully erode the contribution that the site makes to the conservation area and would undermine the character and features which contributes to the conservation areas significance, the development would be obtrusive. The character and appearance of the conservation area with thus not be preserved. The requirement for any development proposals is to preserve or enhance the character and appearance of the CA applies with equal force whether or not the proposal is prominent or in public view.</p> <p>Setting of Listed Buildings The introduction of any buildings would detrimentally diminish the rural spacious character and appearance of the area. Given the close proximity of the site that lies in the setting of these listed buildings and contributes to their significance by being in keeping with the rural character of the area, the proposed development would significantly reduce the spacious rural quality</p>
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		<p>of the area and would be clearly visible from the listed buildings. There are glimpsed views of a listed building through the vegetation when approaching from the east. The fields add a rural sense and contributes positively to the setting of both the listed building and the conservation area. Development would diminish their experience and significance.</p> <p>Non-Designated Heritage Asset The proposed development is also within the grounds of Boveney Court is 19th century park and gardens. It would be detrimental to the rural character and appearance of the grounds and parkland.</p> <p>Landscaping The site has mature boundary planting which means the proposed building is not highly visible and glimpsed views are possible. However, trees and hedges change, they are deciduous, and are liable to change. Landscape features are not permanent features and should not be used to justify development.</p> <p>Historic Mapping Historic maps demonstrate that the underdeveloped character of the landscape has remained largely well preserved. The underdeveloped and landscape qualities of the site and the adjacent fields therefore provide</p>
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		<p>a rural context which forms an integral part of the historic setting of the listed buildings, of the conservation area and of the NDHA.</p> <p>Physical presence of the whole proposal would permanently erode the underdeveloped qualities of the site which has prominent views from the LBs and Boveney CA. This would alter and be detrimental to their settings and the understanding and appreciation of that significance in the development of village. The low-density character in the heart of the village is worthy of preservation.</p>
<p>Heritage Policy Assessment:</p>	<p>This assessment will be made once the requested additional information/amendments (see below) have been received.</p>	<p>The Planning (Listed Building and Conservation Areas) Act 1990 The proposal would not preserve the architectural or historic interest of the listed building and therefore does not comply with sections 66 of the Act.</p> <p>The proposals would not preserve the character or appearance of the conservation area and therefore does not comply with section 72 of the Act.</p> <p>NPPF The proposal would cause less than substantial harm to the significance of the designated heritage asset. Paragraph 202 therefore applies; in applying this policy it is considered that the following paragraphs also apply:</p>

		<p>Paragraph 189 – Heritage assets are an irreplaceable resource and should be preserved in a manner appropriate to their significance.</p> <p>Paragraph 195 - planning authorities should assess the particular significance of any asset affected by a proposal, including by development within its setting and aim to avoid or minimise any conflict between the asset’s conservation and any aspects of the proposal.</p> <p>Paragraph 197 – Assessment should take account of the desirability of sustaining and enhancing the significance of heritage assets and should provide a positive contribution to local character and distinctiveness.</p> <p>Paragraph 199 - great weight should be given to the asset’s conservation, and the more important the asset, the greater the weight should be. This is irrespective of whether the harm amounts to substantial, or less than substantial harm.</p> <p>Paragraph 200 – Any harm or loss of significance of a designated heritage assets from its alteration or destruction, or from development within its setting should require clear and convincing justification. In this instance insufficient information has been provided.</p> <p>Local Plan</p>
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		The proposals do not comply with the following Local Plan Policies C1 and Core Policy 8.
Conclusion:	For the reasons given above it is felt that in heritage terms: The following further information and/or amendments are required before the application can be determined/fully assessed: <ul style="list-style-type: none"> • Assessment of existing foundation to Barn B and submission of details of proposed foundation. 	For the reasons given above it is felt that in heritage terms: That the application does not comply with the relevant heritage policy and therefore unless there are sufficient planning reasons, it should be refused for this reason.

Comparison:

- Different Heritage Officers.
- A significantly more detailed heritage assessment was made for the 10 mobile stable boxes and tack room than for the major development of 12 new houses, following the availability of the Boveney Conservation Area Appraisal document.
- The Boveney Court Farm buildings proposal for a major development of 12 new houses was recommended for acceptance by the Bucks Planning Department, without the Boveney Conservation Area Appraisal document.
- It was refused by the South Area Planning Committee following the provision of the Boveney Conservation Area Appraisal by Dorney Parish Council. The reasons for the refusal were
 - *“the proposal is contrary to policy GB1 of the South Bucks District Local Plan (adopted March 1999) and section 13 (Protecting Green Belt Land) of the NPPF”* and
 - *“the proposal is contrary to policies EP3, and C1 of the South Bucks District Local Plan (adopted March 1999), CP8 of the South Bucks Core Strategy (adopted February 2011), and the provisions of the NPPF.”*
- The Boveney Stables proposals were refused by the Bucks Council Planning Department for the following reasons:
 - *“The proposed development, by virtue of its siting, scale and choice of material, would adversely impact upon the character and appearance of the Boveney Conservation Area, as well as setting of the adjacent listed buildings, namely Pond Cottage, Boveney Court, and Boveney Court Stables, and the setting of Boveney Court park and gardens, which is considered a non-designated heritage asset. As such, the proposal would fail to preserve or enhance the significance of these designated and non-designated heritage assets. The public benefits of the scheme do not outweigh the harm that would be caused to these identified heritage assets. As such, the proposal is contrary to policy C1 of*

the South Bucks District Local Plan, CP8 of the South Bucks Core Strategy (adopted February 2011), and the provisions of the NPPF (section 16 - Conserving and enhancing the historic environment)."

- So, two refusals of planning permission for similar reasons for two applications within 100m of each other in the Boveney Conservation Area, following the provision of the Appraisal document by Dorney Parish Council.

Summary:

The comparison of Heritage Officer reports before and after the availability of the Boveney Conservation Area Appraisal provides insights into how the heritage assessments influenced the decision-making process for two planning applications by the Appellant. Below is an assessment of the key points:

Before Boveney Conservation Area Appraisal (November 2022)

Heritage Officer: Fiona Webb Application: PL/22/3562/FA (12 new houses in Boveney Court Farm Buildings)

Summary:

- Acknowledges heritage assets (Grade II listed building, curtilage listed structures, and Conservation Area).
- Supports the residential use in principle, linking it to the historic use of the farmhouse.
- Indicates no objection to the proposed development in terms of siting, layout, and design.
- Overall, a positive stance on the impact of the development on heritage assets.

After Boveney Conservation Area Appraisal (October 2023)

Heritage Officer: Nicola Bishop Application: PL/23/2700/FA (10 new horse stables in Boveney Court Stables)

Summary:

- Acknowledges the significance of Boveney Conservation Area, listed buildings, and non-designated heritage assets.
- Highlights the harm the proposed development would cause to the openness of the area, character of the Conservation Area, and the setting of listed buildings.
- **Emphasises the adverse impact on the rural character, appearance, and significance of the area.**
- **Notes non-compliance with heritage policies and the Planning (Listed Building and Conservation Areas) Act 1990.**

Comparison:

- **Different Officers:** The change in Heritage Officer may contribute to the different assessments.
- **Detailed Assessment:** The report on the stables' application is significantly more detailed than the one on the residential development.
- **Refusals:** Both applications were refused, citing harm to heritage assets, non-compliance with policies, and inadequate information.
- **Impact of Boveney Conservation Area Appraisal:** The appraisal document provided by Dorney Parish Council seems to have influenced both decisions, leading to refusals in both cases.

Dorney Parish Council Comment: Both Heritage Officers recognise the importance of heritage assets and express concerns about the impact of the proposed developments. **The second report, conducted after the Boveney Conservation Area Appraisal, demonstrates a more detailed and critical assessment, possibly influenced by additional information. The evolution in the level of detail and the explicit identification of non-compliance in the second report provide a clearer basis for the decision-making process.**

An Assessment of what is meant by a “Material Consideration”.

Is the Boveney Conservation Area Appraisal a “Material Consideration”, is it valid and in date, and should it be given great weight in this planning decision?

In our original Submission to the Bucks Council South Area Planning Committee on 25 July 2023 we not only provided a copy of the Boveney Conservation Area Appraisal, which we had safely curated for 27 years (alongside the Dorney Conservation Area Appraisal, which also went missing in Bucks Council’s files), but we also maintained that it should have been found and considered as a “material consideration”. Members of the Planning Committee agreed with us that it was a valid, in date, legal document as Bucks Council had not determined to update it since 1996. It is our position that the eloquent and incisive comments made in that document – by Bucks Council Planning Department – remain as accurate and relevant today as they did then.

However, for this appeal and, given attempts by both Bucks Council Officers and the Appellant to attempt to dismiss this valuable legal document through comments such as “outdated”, “old” and “should carry limited weight”, we decided to research more carefully the role of “material considerations” in the planning process based on more authoritative sources such as the Government (inc. the NPPF), Historic England, Bucks Council, the Supreme Court and case law.

The findings, shown below, strongly confirmed and supported our position.

UK Government

[What is a material planning consideration?](#)

A material planning consideration is one which is relevant to making the planning decision in question (eg whether to grant or refuse an application for planning permission).

Town and Country Planning Act 1990 Section 70

Determination of applications: general considerations.

*(2) In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and **to any other material considerations.***

National Planning Policy Framework (NPPF)

NPPF Definitions:

Conservation (for heritage policy): *The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.*

Designated heritage asset: *A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or **Conservation Area designated under the relevant legislation.***

Dorney Parish Council comment: The Boveney Conservation Area Appraisal is a designated heritage asset.

NPPF Relevant Policies to Conservation Areas:

201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.

Dorney Parish Council comment: The evidence in this case (the Boveney Conservation Area Appraisal) was available and safely curated in our files – an email or a phone call away. But neither Bucks Council Planning officers nor the Appellant attempted, over five years, to find it. If they had, this would, in our opinion, have assisted in avoiding or minimising the conflict that has now arisen.

205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Dorney Parish Council comment: “Great weight should be given to the asset’s conservation” and, by definition, its Conservation Area Appraisal, in our opinion.

225. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Dorney Parish Council comment: This policy addresses the faux “outdated” suggestions made by Bucks Council’s Officers and the Appellant. It is our opinion, based on the evidence above from Policies 201 and 205, that the Boveney Conservation Area Appraisal policy is totally consistent with this Framework. This appears to indicate that “great weight” should be given to the Boveney Conservation Area Appraisal.

Historic England: Relevant Statements to this case:

Para. 13. *Finally, it is a statutory requirement for local planning authorities from time to time to review their conservation areas.*

Para. 18. *A character appraisal of the conservation area will have the following enduring benefits:*

Those considering investment in the area for new development, including developers, planners, Council members, the Planning Inspectorate and Secretary of State, are able to assess the impact of proposals on the area's special interest, character and appearance.

The appraisal will be a material consideration in decisions affecting the area.

The area's special interest is clearly demonstrated allowing robust analysis of the impact of proposals on its significance.

Opportunities to build and understand consensus on the character that it is desirable to preserve or enhance are taken, which can be used to inform robust planning decisions.

Para. 37. *Some authorities have adopted appraisals and management plans as Supplementary Planning Documents (SPD) (eg Tunbridge Wells), whereas others regard the appraisal itself as part of the evidence base for the Local Plan. **Planning inspectors have accepted appraisals as material considerations of considerable weight in appeals whether or not they have been adopted as SPD.***

Para. 79. *Proposals for conservation and enhancement **will be most effective when all the departments at all local authority levels understand the significance of designation and work corporately to ensure that development decisions respect the historic context.***

Appraisals should therefore be disseminated widely within an authority and in related bodies (Highway Departments, for instance – see below paragraph 101) as an agreed public resource for all, as a starting point for consideration of the character of an area and to ensure that works in conservation areas do not cut across the duty to conserve and enhance.

Dorney Parish Council Comment: We are encouraged by the statement in Para. 37. That *“Planning inspectors have accepted appraisals as material considerations of considerable weight in appeals whether or not they have been adopted as SPD.”*

Bucks Council (website)

Decisions on planning applications must be made in line with the Development Plan (Local Plans, Neighbourhood Plans, etc.), unless there are ‘material considerations’ that indicate otherwise.

Anything relevant to making the decision can be a material planning consideration, however in general it relates to matters in the public interest rather than private matters (for example the value of an adjoining property would not be a material consideration.)

The Supreme Court and Case Law

Regrettably, Dorney Parish Council neither has access to a pro bono planning lawyer nor sufficient funds to employ one. Consequently, we have to rely on online commentary from planning lawyers and we do understand the risks of doing so. In all cases we include links to the articles being quoted and we have attempted, where possible to seek more than one source.

Supreme Court

Samuel Smith Old Brewer (Tadcaster) & others v North Yorkshire County Council 2020 UKSC 3
[Failure to take account of a material consideration – is it fatal or not?](#) Cornerstone Barristers

*In Samuel Smith Old Brewer (Tadcaster) & others v North Yorkshire County Council [2020] UKSC 3 the Supreme Court was again grappling with issues of interpretation arising from the NPPF, this time in respect of the Green Belt. Whilst of interest as to the proper approach to the concept of “openness”, it is of wider import to planning, and beyond, **by reason of the Court’s determinative view as to the proper approach when considering whether a failure to take into account a material consideration is fatal.***

*There had been two schools of thought. **The first held that it is only material considerations that a decision maker is obliged to take into account which matter, in terms of grounding a legal challenge. If the decision maker was not obliged, a challenge based on failure to have regard to material considerations would fail.***

***The second, formulated by the Court of Appeal in Bolton MBC v SOSE (1991) 61 P&CR 343, considered that if the Judge took the view that the consideration might have made a difference to a decision then a failure to take it into account would lead to quashing.** Moreover, the first approach leaves it to the decision maker what to take into account (outside the ambit of obligatory considerations), whereas the latter made that issue, in part at least, a matter for the Judge to decide.*

***The Supreme Court succinctly but emphatically found for the first approach.** A very useful summary is provided by Holgate J in *R (Client Earth) v Secretary of State for Business, Energy and Industrial Strategy* [2020] EWHC 1303 (Admin)^[1] at [99]:*

*“In *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] PTSR 221 the Supreme Court endorsed **the legal tests** in *Derbyshire Dales District Council* [2010] 1 P & CR 19 and *CREEDNZ Inc v Governor General* [1981] 1 NZLR 172, 182 **which must be satisfied where it is alleged that a decision-maker has failed to take into account a material consideration. It is insufficient for a claimant simply to say that the decision-maker did not take into account a legally relevant consideration.** A legally relevant consideration is only something that is not irrelevant or immaterial, and therefore something which the decision-maker is empowered or entitled to take into account. **But a decision-maker does not fail to take a relevant consideration into account unless he was under an obligation to do so. Accordingly, for this type of allegation it is necessary for a claimant to show that the decision-maker was expressly or impliedly required by the legislation (or by a policy which had to be applied) to take the particular consideration***

into account, or whether on the facts of the case, the matter was so “obviously material”, that it was irrational not to have taken it into account.” (Original emphasis)

The result is, perhaps, not that surprising, as (i) the leading Opinion was given by Lord Carnwath (in one of his last cases) endorsing an earlier view of his in Derbyshire Dales District Council but (ii) is also clearly correct, as persuasively argued by Robert Williams^[2] in his article “From CREEDNZ to Cumberledge: A review of the law on material considerations” [2017] 12 J.P.L. 1358. Bolton is no longer good law on this aspect.^[3]

Section 70(2) of the Town and Country Planning Act 1990 requires a decision maker to have regard to the development plan – an obligatory consideration – but also all material considerations. But what the material considerations are will be a matter for that decision maker.

It is a matter of judgment for the decision-maker as to which considerations to take into account, subject only to the legal test that a particular consideration is so “obviously material” as to require consideration. The Court is most unlikely to interfere with such a judgment.

Moreover, even if a consideration is found to be material it can still be given no weight – which is not the same as treating it as irrelevant.^[4]

In any contentious planning dispute, therefore, there will be considerations which the decision maker can have regard to but is not obliged to and even if regard is had to them, they can be given little weight. Any applicant for or opponent to a development will therefore be well advised to give thought as to what are said to be the obligatory considerations, as well as those which are obviously material on the facts of the case. In respect of considerations which aren’t clearly obligatory, it will be up to the party concerned to establish their importance to ensure that they are taken into account and given due weight. They may need expressly to point out what they consider are the obvious material considerations which require to be taken into account.

There is a cross-over here with the requirement to give reasons for a decision, which should resolve the principal issues in dispute between the parties. Again, it will be for a party pushing a consideration to seek to ensure that it is properly highlighted so at least requiring the decision maker to have appropriate regard to it and to give reasons if they do not adopt the arguments for it. Whilst there are limitations about how much a consideration can be engineered so as to require to be dealt with under either head, it is important to realise that a court will have little truck with a party complaining about the failure to have regard to, or give reasons for not dealing with, matters that are not properly raised before them.

Article written by James Findlay QC, Cornerstone Barristers

Dorney Parish Council Comment: It appears that the Supreme Court's decision clarified that planning decisions must only take into account factors that **the decision maker is obligated to consider by law or policy. This ruling underscores the importance of parties involved in planning disputes to identify and emphasise both obligatory and obviously material considerations during the process, as the court is unlikely to address issues that are not adequately raised.**

Case Law

Material Planning Considerations: *Irwin Mitchell*

Newbury District Council v Secretary of State for the Environment [1981]

Firstly, as per the 'Newbury' criteria (as set out in *Newbury District Council v Secretary of State for the Environment* [1981]), material planning considerations must:

- **have a planning purpose** (relate to the character and/or use of the land); and
- **be fairly and reasonably related to the development** (it cannot have a remote or trivial connection to the proposed development).

As per Newbury, **material considerations must relate to the land that is the subject of the planning permission**. This could, for example, include the layout of the proposed development, the means of access, the availability of infrastructure, or the design.

It is important the parameters of what could or could not be a material consideration are understood as the approval of a planning application can depend on them. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications should be determined in accordance with the development plan "unless material considerations indicate otherwise". **It therefore follows that a planning application can be legitimately refused, even if it accords with the local development plan, depending on the impact of material considerations.**

To add further complexity, **so long as the decision is made having regard to all material considerations, the weight given to each cannot usually be challenged. The weight to be given to each material consideration is a question of planning judgment and therefore will not be challenged by the courts, unless the weight given was unreasonable.** This could ultimately mean that, even if a material consideration is highlighted to the decision maker, they may decide to give it limited weight.

Ultimately, it is crucial to understand material considerations and for decision makers to ensure they show they have all been considered but, so long as the decision maker can show this, then it is difficult to challenge the decision made.

Dorney Parish Council Comment: It appears, from the above, that the Boveney Conservation Area Appraisal meets the "Newbury" criteria. The limited weight given to the Appraisal by both Bucks Council Officers and the Appellant appears to have been incorrect.

Dorney Parish Council Comment: We recognise that we have only included two examples of legal precedent and rulings, but they appear to reflect other similar rulings. If this is incorrect, we apologise.

When is a Conservation Area Appraisal outdated?

Supreme Court Judgment on Material Planning Considerations Pinsent Masons

R (Wright) v Resilient Energy Sevendale Ltd and Forest of Dean District Council.

A copy of the judgment can be found [here](#).

*In its judgment, the Supreme Court referred to settled case law on the meaning of the term 'material consideration' in the 1990 Town and Country Planning Act. The leading case, from 1981, *Newbury District Council v Secretary of State for the Environment*, established a three-*

fold test: a material consideration must be for a planning purpose and not for any ulterior purpose; must fairly and reasonably relate to the development; and must not be so unreasonable that no reasonable planning authority could have imposed it.

The developer argued that what counts as a 'material consideration' should be updated in line with changing government policy. The Supreme Court, however, disagreed.

"To say that the meaning of the term changes according to what is said by ministers in policy statements would undermine the position ... that what qualifies as a 'material consideration' is a question of law on which the courts have already provided authoritative rulings," said Lord Sales in his judgment. "The interpretation given to that statutory term by the courts provides a clear meaning which is principled and stable over time."

The judge noted that parliament had the ability to amend the statute when it wished to expand the range of factors which should be treated as material.

From the same case – Peyto Law:

Changes in government policy cannot change whether a consideration is “material”.

Conclusion

Dorney Parish Council Comment: We are also relying on NPPF Para. 225. *However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

In addition to members of the Planning Committee, who stated that it was their understanding that the Boveney Conservation Area Appraisal was valid because it had not been updated, all indications are that it is a valid, in date, document and will remain so until Bucks Council changes it. As stated above, Dorney Parish Council sees no reasons whatsoever as to why it should be updated.

Landscape Openness and Character Assessments

The Dorney Parish Council's view of the substantial harm that this proposed development could have on the character and openness of Boveney, and the Green Belt, is demonstrated in three ways:

1. A selection of Before and After photographs – to scale – showing the significant negative impact on:
 - a. The view from the public footpath north of the site. This confirms the “massing” that was cited by the Planning Committee in the first reason for Refusal.
 - b. The current open view from Dorney Common into the site, through the deciduous trees onto the open farmland beyond. Then, the view once the “mass” of new buildings K, L & M are built in place of the open barn, 80% greater in height than the demolished Open Barn building, thus blocking the view through to the open farmland.
 - c. The closer view, from Boveney Road, further confirming the substantial harm to the site, the Boveney Conservation Area and the Green Belt.
 - d. The substantial harm to the private garden amenity of the residents in Boveney Court Farmhouse through the (potentially illegal) siting of new Buildings H & J on Green Belt land which has never been “previously developed”.
2. A robust rebuttal of the Appellant's documents on Openness, which failed to show any of the above images.
3. A much better informed **and independent** view of the Landscape Character of Dorney (including Boveney), conducted for Bucks Council around 2014 (shown by yellow highlighting).

Dorney Parish Council Comment: The range of Before and After images proves the adage “*a picture is worth a thousand words*”. These comparisons demonstrate the horrific impact that this proposal could wreak on the openness and character of the hamlet of Boveney. We believe that the **independent** Landscape Assessment is an extremely professional document and provides a balanced, reasoned position which we endorse. We believe that its views on the openness and character of Dorney Parish (including Boveney) should be given great weight and the Appellants view little or no weight for the many reasons stated in our rebuttal.

A selection of Before and After photographs – to scale – showing the significant negative impact on the site, on the Boveney Conservation Area and the Green Belt

a). Landscape Impact of New Buildings H&J, K, L, M from Public Footpath north of Site



Current View of Site



Future View of Site with 5 new Houses

b). The view from Dorney Common through the site



Current view of Site



Future view of site with Buildings K, L & M (shown without 1.8m fences around houses etc.)

c). The closer view of the Site from Boveney Road through the deciduous trees to open farmland.



Current view of Site (showing open barn – to be demolished)



Future view of site with Buildings K, L & M. These buildings are 80% higher than the demolished open barn (shown without 1.8m fences around houses etc.)

d). Impact on Neighbouring Property Garden from New Houses H&J

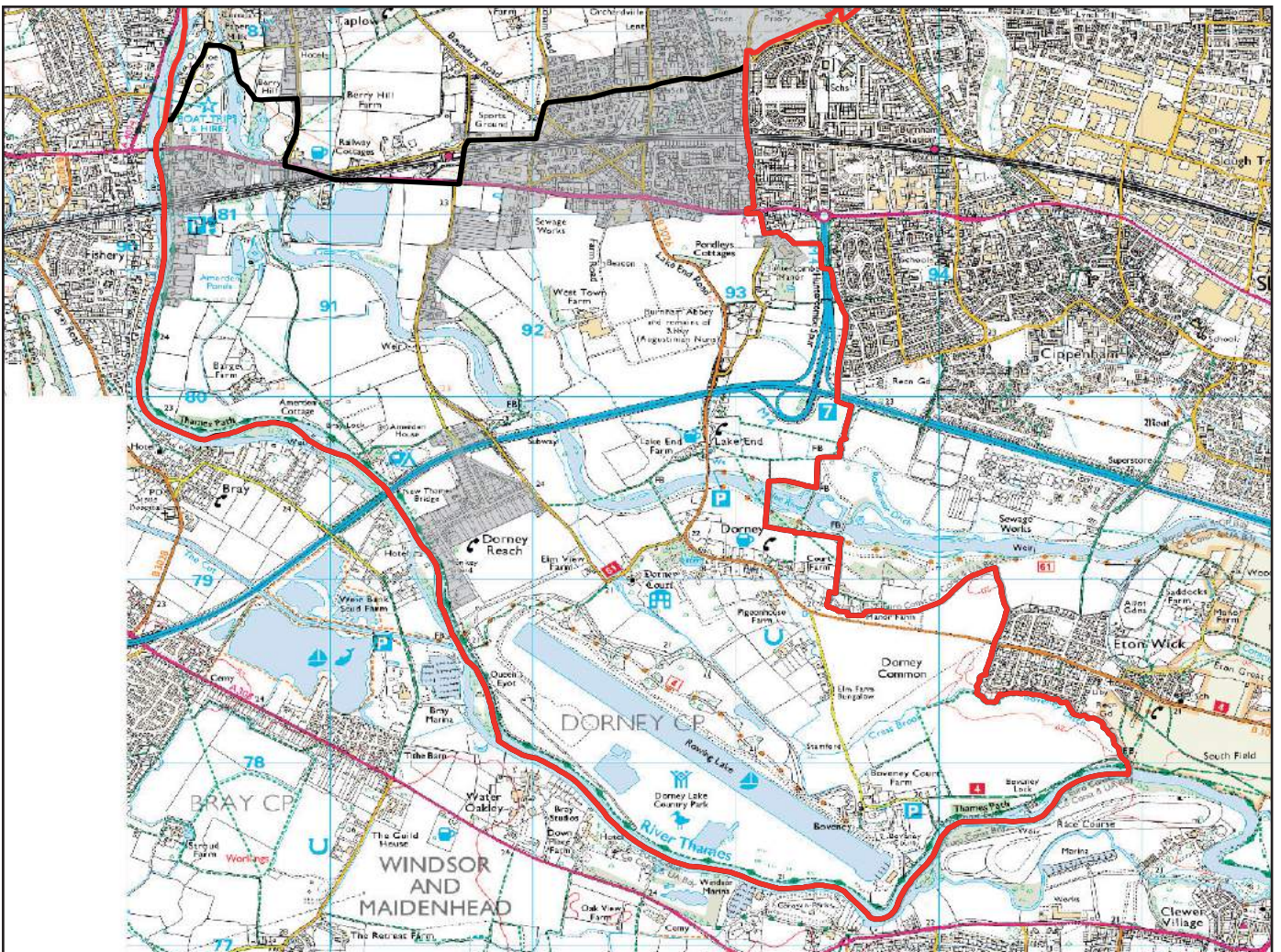
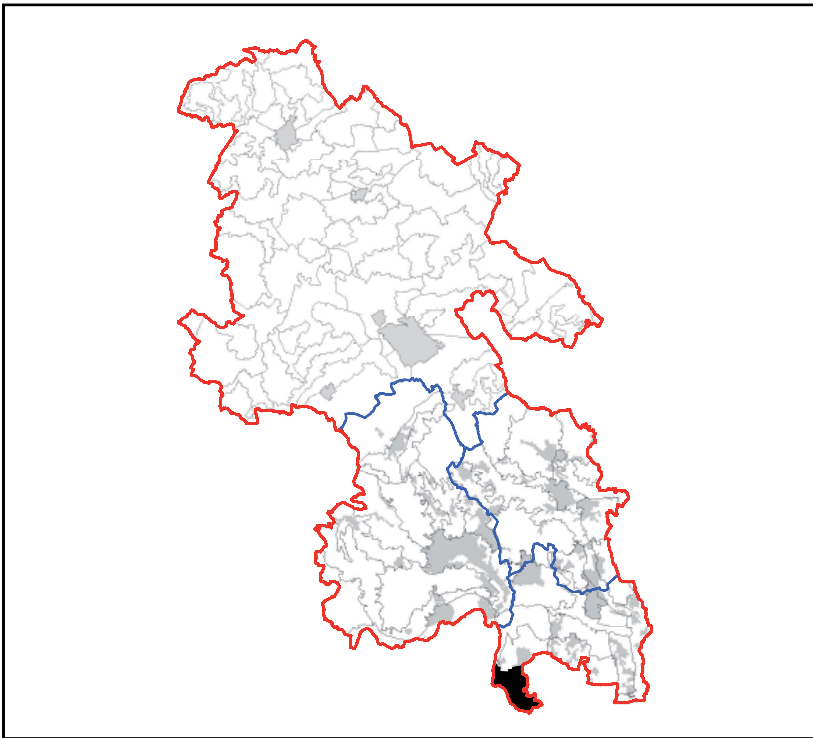


Current Boveney Court Farmhouse Garden



Future Boveney Court Farmhouse Garden with New Buildings H&J (just a few metres from their fence)

LCA 26.2 DORNEY FLOODPLAIN



LCA 26.2 DORNEY FLOODPLAIN

KEY CHARACTERISTICS

- A flat, low lying floodplain, with very slight local topographic variation, underlain predominately with alluvium, and supporting free draining, loamy soils.
- Large open arable cultivation, with smaller field enclosures of rough grazing and some pasture in the north and south.
- A network of rivers, ponds and streams, with the River Thames running along the western and southern boundary and the Jubilee River meandering through the centre of the character area. Scattered ponds are located along the course of these two rivers.
- Low hedgerows commonly define fields, with scattered or clumped trees along these boundaries. Trees are often associated with watercourses. Isolated trees and small pockets of woodland are widely dispersed, and overall woodland cover is sparse.
- Settlement is dispersed and spread linearly along roads or as common edge settlement, with a strong historic character (e.g. Dorney and Dorney Common). Isolated properties and farmsteads are also scattered through the landscape. With the exception of Dorney Reach, a denser, more nucleated settlement.
- Dorney Rowing Lake, a large purpose built rowing lake and designed landscape, occupies the south west portion of the area. A long, expansive water body surrounded by grassland and enclosed by woodland.
- A mixture of 19th century enclosure and parliamentary enclosure (18th -19th century), with some interspersed 18th century fields.
- Numerous historic and archaeological features, including Burnham Abbey, a Medieval Tudor manor and fishponds, several Bronze Age, Iron Age, Mesolithic, and Neolithic cropmarks, and Grade II listed medieval historic parkland at Berry Hill, Taplow and Huntercombe Park.
- The area is cut by the M4, which forms a prominent feature in the landscape, and has a strong visual and audible impact on the area. Elsewhere roads are small and winding.
- The low lying, flat and open landscape allows for long views and panoramic vistas particularly towards Slough, and also to higher ground in the north and south. The open character of Dorney Common allows for long views towards Windsor Castle. Views are occasionally interrupted and enclosed by wooded field boundaries.
- Varying levels of movement within this landscape, with pockets of tranquillity and calm, away from busy roads and settlement.

LCA 26.2 DORNEY FLOODPLAIN

DESCRIPTION

Location and Boundaries: *Dorney Floodplain* lies entirely within the South Bucks District. The character area boundaries are largely dictated by the district boundary itself, and it extends into Windsor and Maidenhead borough, in the south and west, and Slough borough in the east. The north boundary is dictated by the rising topography and the distinctly wooded nature of the landscape.

Landscape Character: A distinctive low lying, flat floodplain landform, with an open character. Medium sized arable fields predominate, with smaller field enclosures of rough grazing and pasture in the north and south, defined by low hedgerows and scattered tree boundaries. Long views towards Slough and to higher ground in the north and south, are occasionally fragmented and enclosed by wooded field boundaries. An important vista exists across Dorney Common to Windsor Castle. The area has varying levels of tranquillity, with the busy M4 cutting the landscape and creating a significant visual and audible impact. Away from the transport corridor, the floodplain retains pockets of tranquillity and calm. Numerous water bodies occupy the landscape, with the Jubilee River meandering through the area, plus associated scattered ponds. These provide a valuable wildlife corridor and important recreational opportunities. Settlement is relatively low density, with a strong historic element, and dispersed linearly along roads, or as loose common edge settlement. Isolated farmsteads and clusters are scattered throughout the landscape. Dorney Rowing Lake, a designed purpose built lake in the south west of the character area, provides a contrast to surrounding farmland.

Geology: Alluvium largely underlies this character area, with a small section of Shepperton Gravel in the east. Freely draining, loamy soils are dominant throughout.

Topography/Landform: A typically flat, low lying floodplain landform, with very slight local topographic variation.

Hydrology: The character area is classed as the Environment Agency Flood Zone 2 and 3. The River Thames runs along the western and southern boundary and the Jubilee River meanders through the centre of the character area, forming a significant feature in the landscape. There are also several ponds scattered along the course of these two rivers. A distinctive feature of this character area is Dorney Rowing Lake, and the surrounding landscape. This large, designed water body occupies the south west corner of the character area and is an expansive and distinctive hydrological feature.

Land Use and Settlement: Land use is dominated by farmland, mainly medium sized, arable fields, with smaller field enclosures of rough grazing and some pasture in the north and south. Rough, low hedgerows define field boundaries, with occasional wooden post and wire fence sub divisions.

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A unique feature within the character area is Dorney Rowing Lake, a designed landscape owned by Eton College, with a large open expansive, artificial lake surrounded by amenity grassland, and enclosed by an arboretum. This recreational land use occupies a large proportion of the south western area.

The M4 dissects the character area centrally, and provides a major transport corridor through the landscape. Elsewhere, there are a limited number of smaller winding roads. The Great Western railway line cuts through the north of the character area.

Settlement is relatively low to medium, and dispersed. It is spread linearly along roads, or around the edge of Dorney Common, generously spaced, with a loose, open character. Isolated properties and farmsteads are sparsely scattered across the landscape. The small village of Dorney Reach is located on the western boundary, and the edge of Slough in the north, present denser and more urbanised modern settlement edge character.

A small network of footpaths provides public rights of way across this landscape. Excellent access along the Jubilee River and Thames path, the latter running along the edge of the character area. Two official cycle routes also pass through the area.

Tree Cover: Hedgerow trees are scattered or clumped along field boundaries and road side edges, with tree cover mainly associated with watercourses. Isolated trees and small pockets of trees are dispersed around the area, but overall woodland cover is sparse. A mix of coniferous and deciduous trees have been recently planted around Dorney Rowing Lake, and provide significant tree coverage in this area. .

Perceptual/ Experiential Landscape: A low lying, flat landscape, with a strong horizontal form. An open landscape, which contrasts with the surrounding wooded character areas to the north. Repetition of geometric field enclosures and hedgerow boundaries, contribute to an organised and rhythmic landscape pattern. This is however, occasionally fragmented and interrupted, by elements such as the M4, and the Jubilee River. Occasional long views and panoramic vistas are provided across open landscape, towards Slough in the north east, and to higher ground in the north and south. There are important views across Dorney Common towards Windsor Castle. Intermittently, field boundaries fragment and limit views within this area. Varying degrees of tranquillity exist within the landscape. The motorway, provides a noticeable visual and audible impact on the area, however, away from this areas of calm and peacefulness exist, particularly close to areas of water. The town edge of Slough, with tall industrial towers occasionally provides a backdrop to the character area, which reduces the sense of rural character. In the south of the character area, the designed landscape of Dorney Rowing Lake, is enclosed and contained by woodland, however extensive views are still possible across the lake and towards Slough. Well maintained amenity grassland and woodland boundaries within this recreational space, provides a contrast to surrounding farmland, which often demonstrates a rough and scrubby texture, with unmanaged field boundaries.

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Biodiversity: This area is dominated by farmland, frequently arable cultivation, with limited biodiversity value. Hedgerows, scattered hedgerow trees and scrubby field boundaries, provide key ecological features, although hedgerows are often gappy and unmanaged. The River Jubilee, River Thames and associated ponds do however provide valuable corridors for wildlife and important habitats, especially for birds. Dorney Common and Cress Brook Local Wildlife Site comprise a large area of neutral grassland and streams. Biological Notification sites in this area are, Amerden Gravel Pit, a small lake in the north and a small area of neutral grassland at St James churchyard.

Historic Environment: There is evidence of occupation dating back to Prehistoric times. The area's proximity to the Thames and its position upon the gravel of the former Thames terraces makes it rich area for archaeological sites, many dating to Palaeolithic, and Mesolithic periods. Aerial surveys have revealed a number of cropmarks which indicate the presence of later sites dating to the Bronze Age and Iron Age.

There are a number of historic sites and monuments of note, including Burnham Abbey, a medieval abbey, previously a house for Augustinian nuns; the medieval/Tudor manor and fishponds at Dorney Court, historic buildings and parkland at Berry Hill, Taplow and Huntercombe Park. Historic building materials in this area are frequently handmade brick and red clay roof tiles.

The historic landscape of the area mostly comprises 19th century enclosure and Parliamentary Enclosure (18th -19th century), interspersed with some earlier, 18th century irregular enclosure fields. Of historical importance are the surviving areas of common land at Berry Hill, Taplow and Dorney Common. However a considerable proportion of the landscape has been altered in the 20th century, with the creation of new fields and pony paddocks, the impact of mineral extraction at Dorney and the creation of the Jubilee River for flood attenuation.

Designations:

- Registered Parks/Gardens: Berry Hill, Taplow; Huntercombe.
- Archaeological Notification Areas: 26 No.
- Conservation Areas: Taplow Riverside, Boveney, Dorney and Huntercombe
- Biological Notification Sites: 2 No.
- Local Wildlife Sites: 2 No.

EVALUATION

Landscape and Visual Sensitivities

Potential landscape and visual sensitivities are:

- River courses, ponds and lakes, and the associated habitat and wildlife value.
- Occasional long views and panoramic vistas. Particularly across Dorney Common towards Windsor Castle and towards higher ground in the north.
- Hedgerow field boundaries and scattered trees.
- The public rights of way access, particularly along the Thames path and Jubilee River.
- The flat landscape and the limited woodland, accentuates the visual sensitivity of the landscape.
- This distinctive loose common edge settlement pattern at Dorney Common and the historic character of settlements.
- Historic elements, such as Archaeological Burnham Abbey, Medieval Tudor manor and fishponds at Dorney Court, Bronze Age, Iron Age, Mesolithic, and Neolithic cropmarks, and large areas of Palaeolithic deposits, which are visible reminder of the historic use of land.
- Historic parkland located at Berry Hill, Taplow and Huntercombe Park.
- The open grassland Dorney Common.

Strength of Character/Intactness: The strength of character and intactness of the *Dorney Floodplain* is **moderate**. Evidence of human impact, such as the M4 fragments the landscape and reduces the distinctiveness of character. Field boundaries are often, unmanaged, and with gappy hedgerows.

Strategy/ Vision: To conserve and enhance the character of Dorney floodplain, with its important water bodies of important ecological and recreational value and proving a valuable green infrastructure resource. To conserve elements of historic interest and maintain pockets of tranquillity away from overt human influence.

Landscape Guidelines:

- Monitor water quality in the rivers, lakes and ponds, seeking to reduce run off and water pollution from surrounding farmland and roads.
- Encourage management and protection of water bodies, and seek opportunities to enhance biodiversity interest.
- Encourage management and restoration of hedgerows, filling in gaps where necessary and seek opportunities to recreate and extend these habitats.
- Conserve open views, particularly across Dorney Common towards Windsor Castle and towards higher ground in the north.

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- Monitor vertical development along the floodplain, which will impact greatly on the low lying, open character.
- Consider opportunities to reduce traffic noise, and consider further screening/buffering of motorways through sensitive tree planting.
- Protect and ensure good management of public rights of way.
- Maintain the historic openness of Dorney Common and conserve the loose linear settlement character preventing infilling and nucleation.
- Conserve historic elements, such as archaeological features and parkland, which provide evidence of past use of the land.

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Jubilee River, meanders through the landscape. Scattered trees associated with waters's edge.



A flat, low lying floodplain, with large open arable cultivation,



Expansive views towards Slough.



Historic character of settlement. Typical old red brick buildings.



Dorney Lake, a purpose built rowing lake. Open expansive water and wooded periphery.

Statements from Appeal Hearing Statement: Green Belt Openness and Responses from Dorney Parish Council

[https://pa-csb.buckinghamshire.gov.uk/online-applications/files/F38162E0ED015722E1ED0E90EDB0839B/pdf/PL_22_3562_FA-APPEAL_STATEMENT_BOVENEY_COURT_FARM - GB_OPENNESS_PART1-4806444.pdf](https://pa-csb.buckinghamshire.gov.uk/online-applications/files/F38162E0ED015722E1ED0E90EDB0839B/pdf/PL_22_3562_FA-APPEAL_STATEMENT_BOVENEY_COURT_FARM_-_GB_OPENNESS_PART1-4806444.pdf)

Statements from the Appellants' Appeal Hearing Statement: Green Belt Openness	Responses to these Statements by Dorney Parish Council
<p>6.4 <i>In Section 3 of this Statement I have reviewed the existing Buckinghamshire Green Belt Assessment which assesses the contribution of General Areas to the purposes of the Green Belt. The Appeal Site is located within General Area 100. The assessment provided in relation to Purpose 3 (Assist in safeguarding the countryside from encroachment) gave a score out of 5 under the criterion of whether the General Area 'protects the openness of the countryside and is least covered by development'. The General Area was given a score of 3 – i.e. contained between 10% and 20% built form and/or possessed a largely rural character (rather than unspoilt countryside / rural area). This suggests the area as a whole has an existing moderate, rather than high level of openness.</i></p>	<p>Whilst factually correct, this part of the assessment is not relevant. Area 100 is close to 1,500 acres in area and covers the whole of Dorney Parish from the M4 south. The hamlet of Boveney, which is what this planning application is concerned with, is remote and represents 35 acres of this area (0.2%). This is confirmed by the statement in Par 3.6. - <i>"However, the Appeal Site forms a small part of the General Area"</i>. The two statements in Para 3.8. are non sequiters - <i>"The critical parts of the surrounding landscape in General Area 100 that contribute strongly to the purposes of the Green Belt are the open fields, river corridor and Dorney Common [of which Boveney has all of them] which are more material to the sense of separation between settlement areas and provide the characteristics of open countryside within the area. Importantly, none of these features are present within the Appeal Site. [If the author had visited the area, it may have been more obvious that all of these features are present in Boveney] Therefore, in conclusion, it is clear that when the purposes of the Green Belt are considered at a local level (rather than at the scale of the General Areas in the Arup study), the Appeal Site does not make a significant contribution to the functioning of the Green Belt."</i> This is demonstrably factually incorrect.</p>
<p>6.5 <i>In Section 4 I have set out the existing contribution to the openness of the Green Belt made by the Appeal Site in terms of physical/spatial and visual openness and the degree of activity in the area. This concluded that the Appeal Site is previously developed land and that when considered in isolation, has a relatively low level of visual and physical openness. This is due to the storage uses, the existing scale and extent of built form and hard surfacing, and the presence of existing vegetation which prevent views across it and limit the visual relationship between the Site and the wider Green Belt</i></p>	<p>Whilst it may be technically true that the Appeal Site is 1 acre and solely comprises buildings, it has always sat within a large open field of 14 acres, all of which is easily visible from Boveney Road. It is unfortunate, but understandable from the Appellants viewpoint, that none of their pictures show this perspective. Consequently, the contribution made to the Green Belt by the Appeal Site and the open field in which it sits provides a high level of visual and physical openness.</p>

6.6	<p><i>In Section 5 I concluded that the introduction of the proposed development would not materially change the contribution to the purposes of the Green Belt of General Area 100. I assessed the changes to the Appeal Site as a result of the proposed development and considered how this would impact the openness of the Green Belt. It is clear from my analysis that the proposed development would not result in substantial harm to the openness of the Green Belt for the following reasons.</i></p>	
	<ul style="list-style-type: none"> <i>The proposed development would repurpose existing buildings for residential dwellings and introduce five new dwellings. Table 5.2 sets out the changes to the extent of development across the Appeal Site. There would be an overall noticeable reduction in the extent of development (built form and hardstanding) and a modest increase in the volume of development. Whilst additional built form would be introduced as a result of the redevelopment, due to the association with an existing residential area, these changes are small scale and would not result in substantial harm to the physical openness of the Green Belt.</i> 	<p>This is factually incorrect. How can adding five large buildings to an existing group of three buildings lead to the conclusion that <i>"There would be an overall noticeable reduction in the extent of development (built form and hardstanding)"</i> . This is an incomprehensible statement. This error is then compounded by <i>"and a modest increase in the volume of development."</i> The volumetric increase is in excess of 15%, which is certainly not <i>"modest"</i>.</p>
	<ul style="list-style-type: none"> <i>The change to built form within the Appeal Site would be experienced within the existing settlement pattern of Boveney and would be in keeping with the existing character of the area with houses of a scale that is present in other parts of Boveney. This is a modest scheme that has been carefully designed to reflect the characteristics of the existing settlement and pattern of development within it. These changes at a site level, which in its current format makes little contribution to visual or spatial openness, would not result in substantial harm to the openness of the Green Belt.</i> 	<p>This, again, is factually incorrect. Doubling the number of dwellings in a small rural hamlet like Boveney cannot, in anybody's terms, be described as <i>"modest"</i>. The current housing density in Boveney is 1 house/ha, the proposed development is 21 houses/ha. This does not <i>"reflect the characteristics of the existing settlement and pattern of development within it."</i> It may be helpful here to consider the wise, and considerably more thoughtful, comment made in the Boveney Conservation Area Appraisal which is <i>"Boveney has a tranquil rural character, and seems to be almost untouched by the development that has spoilt other similar settlements. The District Council would therefore not want to see further development or any intensity in the use of the settlement by visitors."</i> Also stated is <i>"Because of Boveney's rural nature and the relatively small number of widely dispersed buildings, the settlement has a low density...this rural, low density character is a quality that the Council regards as being worthy of preservation."</i> There can be no doubt whatsoever that the planned development will result in substantial harm to the openness of the Green Belt</p>

	<ul style="list-style-type: none"> • <i>The verified views demonstrate that changes to key views across the Green Belt away from the immediate context of the Appeal Site, would be very limited. The Appeal Site as a whole has good containment from the surrounding area due to adjacent residential properties and mature vegetation. The new dwellings would not cut off long distance open views across the Green Belt. Where new built form is visible, it would be seen against a backdrop of existing mature trees or built form that already provide enclosure to views and would be read in context with existing dwellings seen in Boveney. The changes to views would be limited and localised and would not result in substantial harm to the visual openness of the Green Belt.</i> 	<p>This is subjective and unproven by the evidence. Simply repeating a series of factually incorrect statements will not, magically, make them correct.</p>
	<ul style="list-style-type: none"> • <i>The transport assessment concluded that the development would have a negligible impact on the operation of the local highway network. The activity generated by the proposed development would be similar to the existing residential areas of Boveney and Dorney within the Green Belt. These negligible changes to activity would not result in substantial harm to the openness of the Green Belt.</i> 	<p>The transport assessment, as we address elsewhere, bears little relationship to reality. From recent research carried out by residents, the current average vehicle movements/day that use the single track Boveney Road with no passing places is around 300. The Senior Highways Development Management Officer on 16th December 2022 estimated that the dwellings in the development would result in up to 72 vehicle movements/day. If one assumes that there will be in addition, perhaps, 24 delivery vehicle movements (two-way) and other visitor vehicle movements, it is relatively easy for the development to result in around 124 vehicle movements/day. This would be a 50+% increase in the traffic using the 1 km single track Boveney Road with no passing places. This does not appear to be a "negligible impact". Consequently, it is suggested that this reasoning is not used as a rationale to reduce the "substantial harm to the openness of the Green Belt".</p>
	<ul style="list-style-type: none"> • <i>The areas such as Dorney Common and the river corridors that make a critical contribution to the visual and physical openness of the Green Belt in this location, as described in Section 4, would be unaffected by the proposals and the openness of these areas would be maintained.</i> 	<p>Views from the site out into Dorney Common would be directly affected by the massing of buildings onsite and vice versa - so the openness of these areas would not be maintained.</p>
6.7	<p><i>The Officer's Committee Report (CD 5.1) recommended that outline planning permission be granted subject to conditions. In the summary and recommendation section at Paragraph 1.2 the Report states: 'The proposed development would meet the exceptions for development within the Green Belt, as set out in the NPPF, by virtue of it constituting the redevelopment of previously developed land which would not have a substantial impact on the openness of the Green Belt. Given this and the fact that it will be providing a contribution towards affordable housing, the proposal would meet the exceptions for development in the Green Belt, as set out in para. 149'g' of the NPPF, and therefore does not constitute inappropriate development in the Green Belt'.</i></p>	<p>We believe that we have demonstrated time and time again that the Officers' Committee Report (itself produced without considering a required "material consideration" - the Boveney Conservation Area Appraisal) failed to demonstrate that a massive major development such as this in a tiny, tranquil, rural hamlet would not cause substantial harm to the Green Belt.</p>

6.8 *Officers were therefore of a similar opinion as myself, namely that, whilst the development would introduce some new development on the site, that the effects arising from this would be small scale and would not have a substantial impact on the openness of the Green Belt. I therefore conclude that the proposed development is consistent with exception (g) of the NPPF paragraph 154.*

As the Planning Committee, unlike the Officers, were able not only to read the Boveney Conservation Area Appraisal but also to revisit the site and consider the site with new information, we are very confident that they, with the complete information, were able to reach a correct decision on this matter than the Officers were able to do without the complete information.

The very limited housing shortage in the Bucks Council LPA Area

The Appellant affords “*very substantial weight*” and suggests the “*tilted balance*” applies on the South Bucks area 5 year housing supply estimates:

Statement of Case 4.2.21: *The scheme provides 12 high quality market rate homes when only 1.64 years worth of housing sites can be demonstrated in South Bucks for the period of 2022-2027. This uplift in homes when there is such a high demand for them is in accordance with Paragraphs 60 – 68 of the NPPF (CD 4.1) and Core Policy 1 (Housing Provision and Delivery). This is afforded very substantial weight within the planning balance.*

Statement of Case 5.3. *As the Council cannot demonstrate a five year supply of deliverable housing sites the ‘tilted balance’ is applied under paragraph 11d) of the NPPF.*

Let us consider other possibilities:

In the realm of local planning authorities (LPAs), the calculation of the 5-year housing land supply holds significant importance. It not only shapes development strategies but also influences the trajectory of community growth and sustainability. In light of the Planning Practice Guidance (PPG) and the Buckinghamshire Five Year Housing Land Supply Position Statement of 1 April 2020, this paper considers the legal intricacies surrounding the calculation of 5-year housing land supply, particularly in the context of new local planning authorities resulting from government reorganisation.

Understanding the Legal Position

As per the PPG, planning policies adopted by predecessor authorities remain integral to the development plan of an area post-reorganisation, until they are replaced by policies of the successor authority or until the fifth anniversary of the reorganisation. This underscores the transitional nature of planning frameworks and the continuity of policies in the face of administrative changes.

Bucks Council

Bucks Council transitioned into a Unitary Authority on 1st April 2020, marking four years since its establishment. With this transition, it becomes imperative to evaluate the 5-year housing land supply position, considering both the Council's derived total and the South Bucks Area position.

We have, for this purpose, aggregated the four areas’ housing land supply results - [North & Central Area](#), [East Area](#), [South Area](#), [West Area](#) to reach a derived Bucks Unitary Authority total 5 Year Housing Land Supply Position.

Bucks Unitary (LPA) Derived Totals - 5 year Housing Land Calculation (based on the four areas)	
September 2023 (updated 8 January 2024)	
Total housing requirement	13,600.50
Annualised target (Total divided by 5 years)	2,719.90
Five-year housing land supply	11,165.00
Supply divided by annualised target	4.1

As can be seen, **the derived total current 5 Year housing supply for the Bucks Council LPA Area is 4.1 years.**

Assessment of 5-Year Housing Land Supply

Respectfully suggesting a nuanced analysis, we acknowledge that Bucks Council stands at approximately 80% through the required five-year period. The current derived total housing land supply for Bucks Council exceeds four years, contrasting starkly with the South Bucks position, which stands at around 1.6 years. It is crucial to recognise that the supply within the South Bucks area has historically been anticipated to be significantly lower compared to the broader LPA.

Challenges and Considerations

Despite the legal obligation to factor in the existing South Bucks Area 5-year housing land supply, we raise concerns regarding the practical implications of solely relying on this statistic. Placing "very substantial weight" on a figure that is bound to undergo dramatic changes within a short span seems illogical.

Dorney Parish Council Comment: In conclusion, while recognising the legal framework surrounding the calculation of 5-year housing land supply, we believe that it is imperative to approach it with pragmatism and foresight. The derived total number for the Bucks Council LPA underscores the need for a more comprehensive evaluation, taking into account both legal obligations and practical considerations. As we navigate the complexities of housing development, it is crucial to ensure that decisions are informed by a holistic understanding of the local context and long-term sustainability goals, rather than solely relying on static numerical metrics.

We suggest that the decision on this appeal should not ascribe great weight to the South Bucks housing supply metric.

N.B. Of particular relevance to this appeal, which serves to reinforce the actual LPA housing supply position, is a recent minute from Bucks Council's Growth, Infrastructure and Housing Select Committee of Bucks Council meeting on the 7th Sept 2023:

Para 6. ***"Members were advised the Green Belt doesn't necessarily need to be released for development. 68% of Buckinghamshire was not in the green belt, there could potentially be the scope to meet housing needs in the area without encroaching into the Green Belt."***

Bucks Council: "Dorney Parish (inc. Boveney) is not considered suitable for a Major Development" (2019)

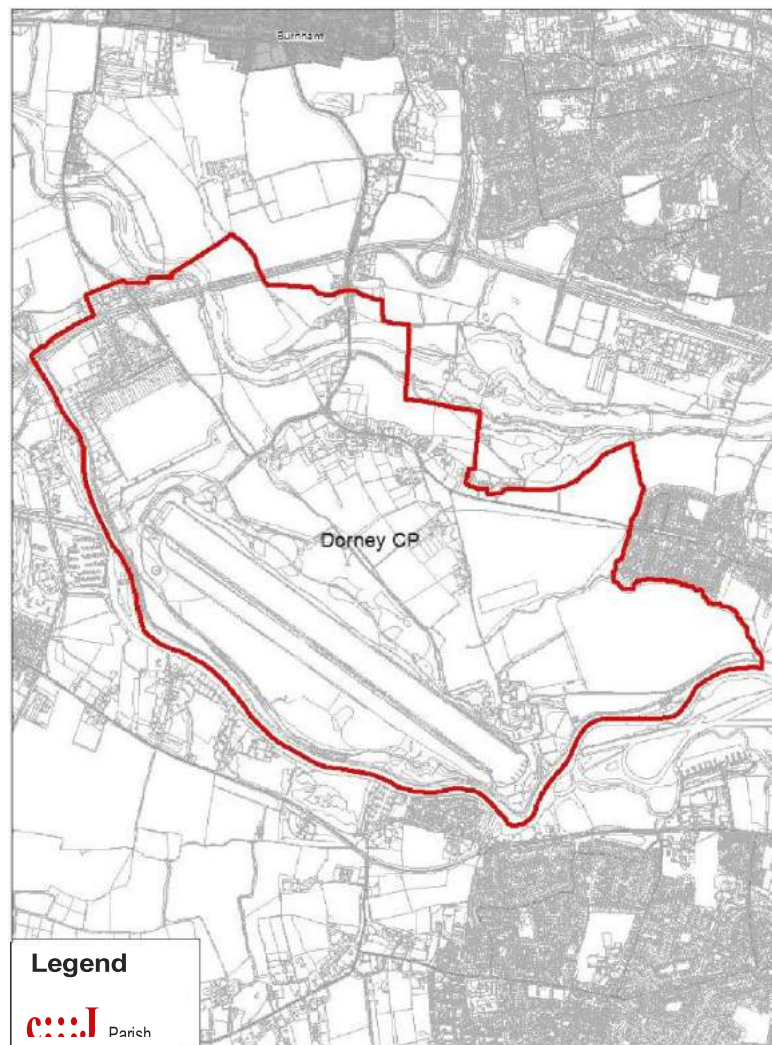
Definition of a Major Development (10+ houses)

Major housing development is defined in [the National Planning Policy Framework](#) as "development **where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more**".

Facts from 2019 Bucks Council Assessment of Dorney Parish (Page 79)

It concludes that **Dorney Parish** "has very few services and facilities and **is not considered suitable for major new development**":

Dorney CP



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Population at mid 2017 (est.)	704
Designated neighbourhood area	No
Position within retail hierarchy	None
Green Belt Site Allocations	None
Major site allocations or developments and their status	None
Other notes	

Details of services and facilities, plus any significant infrastructure issues or comments, are shown below.

Services and facilities

Services and facilities	Presence	Notes
Library	No	
Primary school	Yes	Dorney School (infant and junior)
Secondary school	No	
Hospital	No	
Public transport	Limited	
Supermarket	No	
Convenience store	No	
Post Office	No	

Infrastructure constraints and enhancements

No constraints or enhancements have been identified.

Dwelling Completions

The following tables show dwelling completions (use class C3) in the monitoring years since 2014, and outstanding dwelling commitments (use class C3) as at 31 March 2018.

Year	Completions under permitted development	Other completions	Total completions
2014/15	0	1	1
2015/16	0	0	0
2016/17	0	0	0
2017/18	0	1	1
Annual mean	0	0.5	0.5

Commitments at 31/3/18	Commitments under permitted development	Other commitments	Total commitments
Dwellings not started	0	1	1
Dwellings not started discounted by 10% (rounded to nearest whole number)	0	1	1
Dwellings under construction	0	0	0
Sum of dwellings not started (discounted) and under construction	0	1	1

HELAA Data

The latest (February 2019) update to the Councils' HELAA includes no sites in the parish.

Commentary

This parish has very few services and facilities and is not considered suitable for major new development. This is borne out by data for housing completions which show that approximately one dwelling every two years has been delivered in recent years.

Ensuring that there is no Employment Loss

The DPC paper for the Planning Committee (July 2023) stated the following:

- Dorney Parish Council strongly disagrees with the Applicant's and Planning Directorate's stance on the lack of commercial demand for the buildings' Class B8 usage.
- We are particularly concerned about the potential conflict of interest arising from both Agents involved in the Market Report being employed by the Applicant.
- Additionally, the lack of a prolonged period of unsuccessful marketing, using details approved by the District Council, raises questions about the validity of the assessment.
- Furthermore, we find it surprising that neither the Authors nor Planning Directorate made any attempt to contact the previous tenant to understand the reasons for their departure or to examine the successful transition of Pigeon House Farm at the top of Boveney Road, where several tenants have created a considerable number of new jobs in recent years.
- Elm Farm in Boveney Road also appears to be a thriving multi-faceted commercial site, providing employment opportunities.
- To gain more insight into the demand for commercial use of the buildings and support local employment, Dorney Parish Council contacted the most recent previous tenant, who ran a successful tree surgery business approximately six years ago. He expressed disappointment at being asked to leave the site, emphasising that it was a good location for his business.
- As a community, we are committed to promoting local employment and not merely serving as a commuter village for neighbouring areas.
- To achieve this goal and ensure the best use of available space, a professional and independent marketing process should have been undertaken before seeking permission to convert viable light industrial units into commuter housing.

Response to Appeal: Further supporting information

We refer to the non-independent, armchair [Commercial Market Report](#) by Savills. It states: *“The pre-application advice has emphasised that South Bucks Council expect the applications to be supported by marketing evidence that shows there is no market demand for the buildings in their current use. Under Local Plan Policy CP10, the main planning test is that **“there is no reasonable prospect of a site being used for the permitted purpose”**. This report addresses that planning test and makes the case that the properties are not suited to continued Class B8 use and provides the following:*

1. Market overview of demand and supply for Class B8 uses in this location
2. Market commentary on alternative commercial uses including specialist accommodation for the elderly and/or those with special needs, hotels and other serviced accommodation, retail, leisure & community uses.

3. Assessment of the opportunities and constraints presented by the current buildings and sites”

*Fundamentally, this study finds that the subject site is **not suited to the ongoing and future use as B8 or other commercial uses** and indeed, such use would be commercially unfeasible.”*

It remains the opinion of Dorney Parish Council that this Report is flawed and fails to address the previous history of the site. As an example, Eton College used it for the Dorney Lake equipment for only a few months before moving the operation to Eton.

Dorney Parish Council have conducted new research into the previous history of the site and have established that:

- The previous successful forestry business, Landmark Tree Surgery Ltd. (SIC Classification 02100), which occupied two of the buildings and virtually all of the land on the site for 27 years, from 1992 to 2019, had their lease terminated early and were induced to leave the site – much against their will.
- The business employed eight full time staff, plus the owner.
- An alternative employment use of the buildings was also raised – accommodation for rowing clubs using Dorney Lake – but that never materialised.

The Report states, correctly in Para 4.1.2., that *“The local market is characterised by plentiful supply of small, conventional industrial units and good demand from tenants for well located and appointed units.”*

This is confirmed by a number of small businesses that are operating successfully in and around Dorney Parish – and have done so for many years.

The Boveney site was not a problem for the forestry business which had relatively few vehicle movements a day – primarily teams going out to tree surgery jobs in the morning and returning at night.

However, addressing the *“well appointed”* comment, the state of the listed and curtilage-listed buildings (A, B, C, D, E, F & G) was not good. The care the Appellant took over repairing and maintaining the listed buildings left much to be desired. It is of serious concern that the Appellant, who has owned these buildings for 95 years (since 1929), appears not to have maintained these listed buildings in accordance with published national guidelines.

The [Report on Barn A](#) Para. 3. states the following by the consultant in July 2020: *“It is clear that this Grade II listed barn has suffered from neglect and is now in need of significant repair in order to maintain it in a stable and weather tight condition.”*

We are advised by the owners of Boveney Court Farmhouse, into whose grounds Barn A juts, that little or no work has been conducted to repair this listed building for the past three and a half years. This lack of action would certainly deter future tenants.

Barn B has also suffered neglect although, fortunately, not as much as Barn A. [The Method Statement \(May 2022\) for Barn B](#) records in Para 2 the long list of repairs required prior to any future use.

We would like to emphasise the importance of the following statements in the South Bucks Local Development Framework - Core Strategy Development Plan Document Adopted February 2011:

Core Policy 10 – Employment

*Para.3.4.1. The evidence base prepared for the South East Plan concluded that **the need for additional employment floorspace in the area** which extends to the west of London (including South Bucks District) **could largely be met through the more efficient use of employment land in town centres and on established employment sites. Such an approach is particularly important in South Bucks, given the Green Belt constraint.***

*Para.3.4.6. It is important that existing and new businesses in South Bucks are supported by **generally protecting employment sites from redevelopment for other uses, and allowing appropriate redevelopment or expansion on existing employment sites.***

*Para.3.4.14. Less than 1% of the resident workforce in South Bucks work in rural activities such as **agriculture, forestry and fishing. However, this sector remains important, both in terms of preserving the character of the countryside and sustaining rural communities.***

*A footnote (67) to Core Policy 10 states 'In seeking to demonstrate that there is no reasonable prospect of a site being used for the permitted purpose, **the applicant will need to have undertaken a prolonged period of unsuccessful marketing, using details approved by the District Council.**'*

Guidance Note -Marketing Requirements in Relation to Core Policy 10: According to the Bucks Council Planning Department, *“the Council have published a Guidance Note on the Marketing Requirements in Relation to Core Policy 10 (Employment). This advises that **vacant premises or sites should be continuously marketed for at least one year, although a longer period of marketing may be appropriate for larger sites, or where the economic climate is more challenging.**”*

Dorney Parish Council Comment: Dorney Parish Council is convinced, knowing the businesses in the area well, that the Report is substantially incorrect in its conclusions and strongly advocates that the Appellant makes the necessary repairs to Barn A and Barn B, as specified by their consultants, refurbishes the other listed buildings and, in conjunction with Dorney Parish Council, conducts a professional, independent marketing exercise for a period of one year or more, as required, following the repairs to Barns A & B together with refurbishment of the other buildings and thoroughly clearing up the site in general.

The DNA of Dorney: An Analysis of Housing Density in Dorney and its Settlements, including the Boveney Court Farm buildings proposed development

[An extract of a recent article in Dorney Parish News]

One of the major contributors to Dorney's unique DNA sitting, as we do, in between Maidenhead, Burnham and Slough, is the low density of our housing.

This is cited in a number of planning documents produced by Bucks Council – the purpose of which is to provide planning guardrails:

1. Dorney's Landscape Character Assessment 2011 (LCA):

- a. Bucks Council: *"Landscape Character Assessment (LCAs) describe and record what makes parts of Buckinghamshire different, distinctive or special. LCAs encourage sensitive siting and the design of development that minimises harm to the character and the valued qualities of Buckinghamshire's landscapes."*
- b. Dorney: *"Settlement is dispersed and spread linearly along roads or as common edge settlement, with a strong historic character (e.g. Dorney and Dorney Common). Isolated properties and farmsteads are also scattered through the landscape."*
- c. Landscape Guidelines:
 - i. *Conserve open views, particularly across Dorney Common towards Windsor Castle and towards higher ground in the north.*
 - ii. *Monitor vertical development [e.g. houses] along the floodplain, which will impact greatly on the low lying, open character.*
 - iii. *Maintain the historic openness of Dorney Common and conserve the loose linear settlement character preventing infilling and nucleation."*

2. Boveney's Conservation Area Appraisal (1996)

- a. *"Consequently, there is little in the way of townscape views, nevertheless, this rural, low density character is a quality that the District Council regards as being worthy of preservation."*
- b. *A number of key landscape views onto Dorney Common and across to Windsor Castle exist from within the settlement."*

The following analysis of Dorney's net site area housing density (dwellings and gardens/hectare) indicates, by Settlement, the current housing density. The right hand column of the first chart assesses the housing density of the proposed Boveney Court Farm buildings site – **a totally excessive 21 houses/ha compared to the current density of Boveney at 1 house/ha and the more reasonable suggestion of 4 houses/ha.**



Current and Proposed Houses

Dorney Parish Housing Density						
Approximate Numbers	Current Houses			Proposed Planning Applications		
	Net Site Area		Density	Net Site Area	Total	Density
Settlements	Hectares	Houses	Houses/ha	Hectares	Houses	Houses/acre
Lake End	1.9	12	6.32			
Dorney Reach	29.5	177	6.00			
Dorney Village	14.2	73	5.14			
Dorney Common (inc Court Farm site)	4.5	17	3.78			
Boveney Road (north of Cress Brook)	5.7	12	2.11			
Boveney (South of Cress Brook)	8.5	9	1.06			
Totals	64.3	300	4.67			
			Settlement			Site
Boveney Farm Site (build/garden area only)	0.57	0.0	1.06	0.57	12	21.1
						Refused
<i>Net Site Area: dwellings and gardens only</i>						

Houses based on specific Settlement Density and on highest Density (Lake End)

Dorney Parish Housing Density		
Approximate Numbers	Proposed Allocation	
	based on Settlement Density	based on Lake End Density (highest)
Settlements		
Lake End		6.32
Dorney Reach		
Dorney Village		
Dorney Common (inc Court Farm site)		
Boveney Road (north of Cress Brook)		
Boveney (South of Cress Brook)	1.06	
Totals		
Boveney Farm Site (build/garden area only)	1	4
<i>Net Site Area: dwellings and gardens only</i>		

The Bucks Planning Committee voted 6-1 against the Boveney application, citing "substantial harm to the openness of the Green Belt" due to "the increase in built form on the site, the increase in the number of buildings, and the bulk and massing of the new buildings" – essentially, high housing density. Despite the application's 12 houses, density calculations (using Lake End's and Dorney Reach's highest figure of 6 houses/ha) suggest it should have a maximum of four new houses.

Bill Dax

Substantial harm to the Openness of the Green Belt: “Bulk and Massing” of New Buildings

Bucks Council Reason for Refusal 1. *The application site is located within the Metropolitan Green Belt wherein there is a general presumption against inappropriate development except in very special circumstances. The proposed development, by virtue of the increase in built form on the site, the increase in the number of buildings, and the bulk and massing of the new buildings, would cause substantial harm to the openness of the Green Belt spatially and visually, including when viewed from across the adjacent fields. The proposed development therefore fails to meet any of the exceptions for development allowed in the Green Belt, and as such constitutes inappropriate development within the Green Belt, which by definition is harmful. Harm is therefore caused to the Green Belt by virtue of its inappropriateness, and substantial reduction in its openness. The NPPF sets out that substantial weight should be given to any harm to the Green Belt. No very special circumstances have been advanced that clearly outweigh the harm that would be caused to the Green Belt by reason of inappropriateness and a reduction in openness. As such the proposal is contrary to policy GB1 of the South Bucks District Local Plan (adopted March 1999) and section 13 (Protecting Green Belt Land) of the NPPF.*

The “bulk and massing” of the new buildings can be considered using three metrics:

1. The **height** of the new buildings H, J, K, L, M compared with the building being replaced (Metal Shed) and the retained existing buildings B, C, D, E, F, G.

Building Heights In Boveney Court Farm Development			
Building	Height Metres	v. Metal Shed	v Retained Existing Building
		Demolished	Lowest
H and J (New Dwellings)	10.70	95%	69%
KLM (New Dwellings)	9.95	81%	57%
Barn B (Existing Barn)	8.14	48%	29%
C and D (Existing Barn)	7.20	31%	14%
F1, F2, G (Existing Barn)	7.10	29%	12%
E (Existing Barn)	6.33	15%	0%
Metal Shed (Existing Open Barn to be demolished)	5.50	0%	
Conclusions:			
New Dwellings are 81% to 95% higher than the building they are replacing (Metal Shed)			
New Dwellings are between 57% and 69% higher than the lowest retained existing building (E)			

2. The **footprint** of the new buildings H, J, K, L, M compared with the building being replaced (Metal Shed)

Footprint In Boveney Court Farm Development			
New Buildings v demolished Metal Shed			
Building	Current sq m	New sq m	Variance %
H and J (New Dwellings)	0.0	153.2	
KLM (New Dwellings)	0.0	184.6	
Totals	0.0	337.8	
Metal Shed (Existing Open Barn to be demolished)	292.0	0	
Totals	292.0	337.8	16%
Conclusion:			
The New Buildings footprint is 16% more than the demolished building being replaced			

3. The **volume** of the new development (including new buildings) compared to the volume of the current existing buildings.

Building Volume (Mass) In Boveney Court Farm Development			
New Buildings compared to Demolished Metal Shed they are replacing			
Building	Volume Existing cu m	Volume Existing & New exc Demolished	% Change
H and J (New Dwellings)	0.00	1082.40	
KLM (New Dwellings)	0.00	979.34	
All other existing buildings remain the same			
100% Full:			
Metal Shed (Existing Open Barn to be demolished)	1198.00	0.00	
Totals	1198.00	2061.74	72.1%
Conclusion:			
Additional Volume (Mass) of New Buildings is 72% more than the demolished Metal Shed (100% Full)			

Building Volume (Mass) In Boveney Court Farm Development

Building	Volume	Volume	% Change
	Existing	Existing & New	
	cu m	exc Demolished	
H and J (New Dwellings)	0.00	1082.40	
KLM (New Dwellings)	0.00	979.34	
Barn B (Existing Barn)	590.80	590.80	
C and D (Existing Barn)	993.60	993.60	
D and E (Existing Barn)	469.10	469.10	
F1, F2, G (Existing Barn)	1691.60	1691.60	
E (Existing Barn)	687.80	687.80	
Metal Shed (Existing Open Barn to be demolished)	1198.00	0.00	
Totals	5630.90	6494.64	15.3%

Conclusion:

Additional Volume (Mass) is 15.3% more than the existing buildings



But, this calculation assumes that the Metal Shed is full to the rafters 100% of the time – which it was not. The following calculations are based on the Metal Shed being a) 50% full and b) 25% full on average:

a) Firstly, 50% Full:

Building Volume (Mass) In Boveney Court Farm Development

Metal Shed 50% full

Building	Volume	Volume	% Change
	Existing	Existing & New	
	cu m	exc Demolished	
H and J (New Dwellings)	0.00	1082.40	
KLM (New Dwellings)	0.00	979.34	
Barn B (Existing Barn)	590.80	590.80	
C and D (Existing Barn)	993.60	993.60	
D and E (Existing Barn)	469.10	469.10	
F1, F2, G (Existing Barn)	1691.60	1691.60	
E (Existing Barn)	687.80	687.80	
Metal Shed (Existing Open Barn to be demolished)	599.00	0.00	
Totals	5031.90	6494.64	29.1%

Conclusion:

With the Metal Shed 50% full, the Additional Volume (Mass) is 29.1% more than the existing buildings

b) Secondly, 25% Full:

Building Volume (Mass) In Boveney Court Farm Development			
Metal Shed 25% full			
Building	Volume	Volume	% Change
	Existing	Existing & New	
	cu m	exc Demolished	
H and J (New Dwellings)	0.00	1082.40	
KLM (New Dwellings)	0.00	979.34	
Barn B (Existing Barn)	590.80	590.80	
C and D (Existing Barn)	993.60	993.60	
D and E (Existing Barn)	469.10	469.10	
F1, F2, G (Existing Barn)	1691.60	1691.60	
E (Existing Barn)	687.80	687.80	
Metal Shed (Existing Open Barn to be demolished)	299.50	0.00	
Totals	4732.40	6494.64	37.2%
Conclusion:			
With the Metal Shed 25% full, the Additional Volume (Mass) is 37.2% more than the existing buildings			

Dorney Parish Council Comment: These “massing” metrics are shocking. Each one of them more than confirms the specific points made in the Reason for Refusal 1. Each one of them causes substantial harm to the openness of the Green Belt. Each one of them confirms that this planning appeal should, in our opinion, be dismissed.

Units H & J are proposed to be built on hardstanding, which appears to be contrary to the NPPF.

NPPF Paragraph 154 lists the exceptions to the rule that “**construction of new buildings**” in the Green Belt is “**inappropriate**”. These include Para. 154 (g) which states: “[...] *the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development*”.

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

These proposals clearly do not appear to comply with this exception:

- They appear to be based on the erroneous assumption that new buildings can be built on all “previously developed land” (PDL). This land has never been developed.
- The only land that can be built on is that on which buildings other than agricultural buildings are sited.

Putting new houses anywhere one wants does not appear to be within NPPF Green Belt guidelines, especially when the buildings would destroy the amenity of the garden of the neighbouring property – Boveney Court Farmhouse:



Before

After

We have reviewed the Certificate of Lawfulness application made in 2019 for retrospective Change of Use to storage/commercial. (PL/19/4124/EU | Certificate of Lawfulness for existing: storage use (Use Class B8) of outbuildings and barns at Boveney Court Farm)

Change of Use was granted for all the **buildings** on the site. But there is no mention of any consideration for the hardstanding area. It appears that the change of use was granted in favour of the actual buildings rather than any other areas.

The Pre-Application Advice (17 September 2020) appears to support this position *“It is important to note that if the site does include land that is not covered by the Certificate, then any proposal would revert to being inappropriate development within the Green Belt.”*

This area of hardstanding has been used for forestry purposes from at least 2003 until 2019. It was a storage area for wood chip resulting from the forestry business (Landmark Tree Surgery Ltd. SIC Classification 02100 – Silviculture and forestry business). The wood chip was collected regularly by Slough Power and Heat who provide energy for businesses on the Slough Trading estate.

We note the similarities between this appeal and the 2019 Appeal APP/Q3630/W/18/3206959 which follows.

Derived from the 2019 Appeal, we have adapted the reasoning by the Inspector in Paragraph 10 to relate to this appeal. The words in italics appears to fit this reasoning perfectly.

Consequently, as *the last lawful use of the hardstanding was for forestry purposes and there have never been any structures on it so it would appear not to comprise previously developed land as defined by the Framework. As a result, it would appear not to count toward the exception to inappropriate development relating to the redevelopment of previously developed land.*

Dorney Parish Council Comment: From the guidance above, it is unclear to us whether placing two four-bedroom houses on Green Belt land that has had no previous structures on it, and which directly overlooks the neighbouring private garden area from a short distance, is permitted. As the Certificate of Lawfulness does not include any land, it appears from the Pre-Application Advice letter that *“if the site does include land that is not covered by the Certificate, then any proposal would revert to being inappropriate development within the Green Belt”*. Is this the case?

We don't believe that building on this land, previously used for forestry for nearly 30 years, should be permitted – but we are not planning experts.



Directorate for Planning, Growth and Sustainability

King George V House, King George V Road, Amersham, Bucks HP6 5AW

planning.csb@buckinghamshire.gov.uk

01494 732950 | 01895 837210

www.buckinghamshire.gov.uk

Mr Oliver Enticott
Savills
33 Margaret Street
London
W1G 0JD

BUCKINGHAMSHIRE COUNCIL DECISION NOTICE

Application no. PL/19/4124/EU

TOWN AND COUNTRY PLANNING ACT 1990, Sections 191

(as amended by section 10 of the Planning and Compensation Act 1991)

Town and Country Planning (Development Management Procedure)(England) Order 2015

CERTIFICATE OF LAWFULNESS FOR A EXISTING USE OR DEVELOPMENT

Buckinghamshire Council as Local Planning Authority, **HEREBY CERTIFY** on **28 November 2019** the use **described in the First Schedule** to this certificate in respect of the land specified in the **Second Schedule** to this certificate and in accordance with the plans and particulars accompanying it and **plan attached to this certificate with site edged bold** was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 for the following reason(s):

1 **The BUCKINGHAMSHIRE COUNCIL HEREBY CERTIFIES that on 28th November 2019 the existing use, operational development or activity in respect of the above land for the purposes of:**

Use of buildings hatched black on the attached plan for storage purposes within Use Class B8

was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

Their use for storage purposes within Use Class B8 has continued for in excess of 10 years. Section 191(2) (a) of the Town and Country Planning Act 1990 (as amended) therefore renders it lawful, and by virtue of Section 171B of the 1990 Act no enforcement action may be taken in respect of this matter.

Steve Bambrick
Service Director of Planning and Environment
On behalf of the Council

Date: 1 May 2020

First Schedule:

Certificate of Lawfulness for existing: storage use (Use Class B8) of outbuildings and barns at Boveney Court Farm

Second Schedule:

Boveney Court Farm, Boveney Road, Dorney, Buckinghamshire, SL4 6QG,

GENERAL NOTES

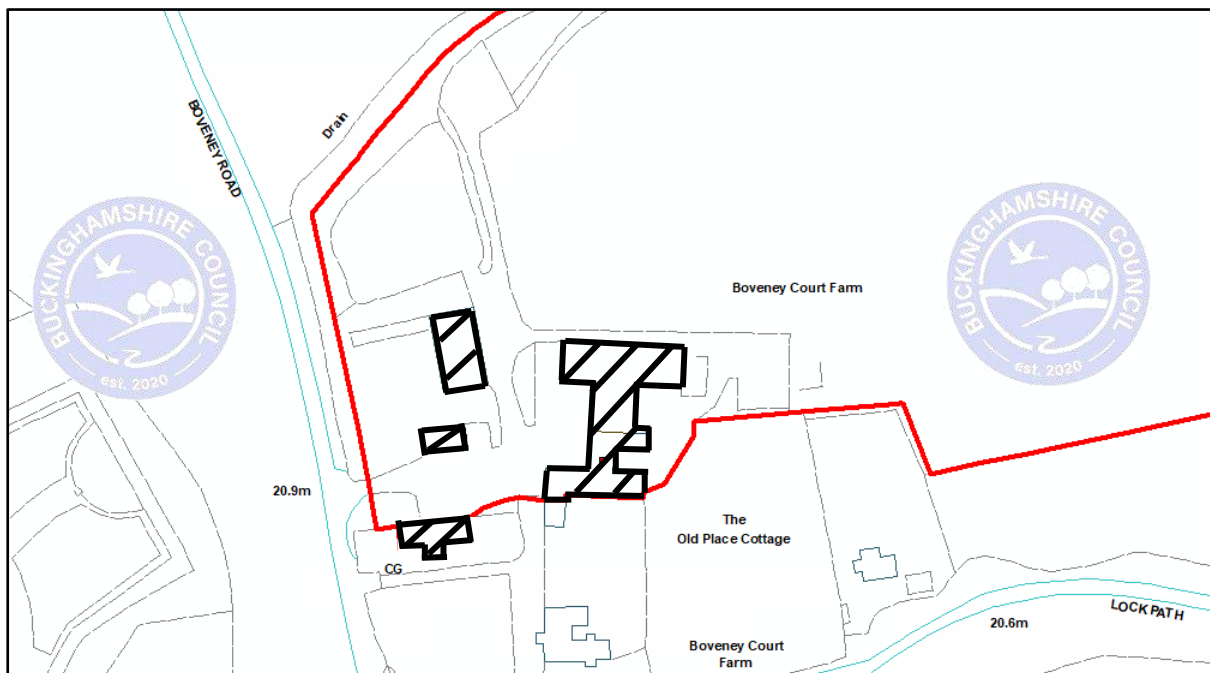
1. This certificate is issued solely for the purpose of section 191 of the Town and County Planning Act 1990 (as amended).
2. It certifies that the use/operations/matter specified in the **First Schedule** taking place on the land described in the **Second Schedule** was/were/would have been lawful, on the specified date and therefore was not/were not/would not have been liable to enforcement action under section 172 of the 1990 Act on that date.
3. This certificate applies only to the extent of the use/operations/matter described in the **First Schedule** to the land specified in the **Second Schedule** and identified on the attached plan. Any use/operations/matter which is/are materially different from that/those described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the certificate is also qualified by the provision in section 191(6) of the 1990 Act (as amended). That states that the lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.



Certificate of Lawfulness plan

PL/19/4124/EU

Boveney Court Farm, Boveney Road, Dorney, Buckinghamshire, SL4 6QG



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Appeal Decision

Site visit made on 8 January 2019

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2019

Appeal Ref: APP/Q3630/W/18/3206959

Belbourne Nurseries, Hurst Lane, Egham TW20 8QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gemco Properties Ltd against the decision of Runnymede Borough Council.
 - The application Ref RU.18/0108, dated 10 January 2018, was refused by notice dated 20 June 2018.
 - The development proposed is the erection of up to 14 dwellings with associated residential curtilages, parking and turning areas and amendments to existing access and provision of new footway along Hurst Lane.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis, treating the site layout plans, floorplans and elevations as illustrative. The access, appearance, layout, scale and landscaping (the reserved matters) are reserved for consideration at a later stage.
3. The National Planning Policy Framework (the Framework) was published during the course of the appeal. The Council and appellant had the opportunity to comment and I have taken its contents into account in coming to my decision.
4. I note that the draft Runnymede Local Plan has been submitted for examination but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the Framework. Consequently, I am only able to give it limited weight in my decision.
5. A Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 has been submitted that would provide contributions toward affordable housing and financial contributions toward education provision.

Application for costs

6. An application for costs was made by Gemco Properties Ltd against Runnymede Borough Council. This application is the subject of a separate Decision.

Main Issues

7. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- The effect of the proposal on the provision of storage and distribution premises;
- Whether there are other considerations weighing in favour of the proposal; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

8. Belbourne Nurseries comprises a yard used for storage and distribution purposes under Use Class B8 of the Town and Country Planning (Use Classes) Order 1987. In the centre of the yard is a single storey building that provides storage and office space. The remainder of the yard is used for parking and maintenance of the HGVs operated by the occupier, along with some containers and outside storage. Adjacent to the area used under class B8 is a former plant nursery site of hardstanding with two substantial glass houses. The plant nursery is outside the appeal site area, although I understand that it is within the same ownership.
9. The Framework states that new buildings within the Green Belt should be considered inappropriate with a number of exceptions. This includes the partial or complete redevelopment of previously developed sites whether redundant or in continuing use. However, such development should not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development; or should not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. The Framework confirms that previously developed land includes land which is occupied by a permanent structure, including the curtilage of the developed land, but excludes land that is or has been occupied by agricultural or forestry buildings. Policy GB1 of the Runnymede Borough Local Plan sets out a presumption against development that would conflict with the purposes of the Green Belt or adversely affect its open character.
10. It is proposed that the existing hardstanding and glass houses would be removed from the adjacent nursery. The last lawful use of the nursery was for horticultural purposes, which is an agricultural use so it would not comprise previously developed land as defined by the Framework. As a result, it would not count toward the exception to inappropriate development relating to the redevelopment of previously developed land.

11. In addition, the glass houses and surrounding hardstanding are outside the appeal site area. It has been suggested that a condition could require their removal prior to development commencing, although it is not clear whether such a condition could be sufficiently precise. Planning Practice Guidance¹ suggests that such pre-commencement conditions may not be enforceable. No alternative mechanism to ensure removal of the buildings and hardstanding has been suggested. Consequently, I have put little weight on their removal.
12. There is a single storey building in the centre of the appeal site surrounded by hardstanding on which are located containers, parked HGVs and outside storage. A Certificate of Lawfulness of Existing Use or Development limits the number of HGV movements, so restricts the use of the land. As a result, the appeal site comprises previously developed land. Hardstanding is at ground level, so has a limited effect on the openness of the Green Belt. However, the bulk of the containers, parked HGVs and outside storage located on it have a significant effect on openness, albeit are all transient equipment.
13. These would all be removed from the site to be replaced by 14 houses and access roads spread across the site. The illustrative drawings indicate that the proposed dwellings would be two storey. I note suggestions of a condition limiting the height of the dwellings, although it is not clear whether that would mean the footprint of the dwellings would be larger to take account of the loss of the first floor. Nevertheless, the proposed development would result in a significant amount of buildings spread around the site. Although the gardens of dwellings would provide a small buffer to the edges of the site replacing the hardstanding, this development would have a more permanent and substantial appearance than the existing development. Consequently, it would result in a greater harm to the openness of the Green Belt than the existing development, including a greater visual effect, and would result in built development encroaching further into the countryside. I consider that harm to be substantial.
14. The Unilateral Undertaking provides for 15% of the proposed dwellings (rounded up) to be affordable. As a result, the proposal would contribute toward meeting an identified affordable housing need within the area. Nevertheless, the substantial harm to the openness of the Green Belt would mean that the proposal would not benefit from the exception to inappropriate development as set out in the Framework.
15. For these reasons, I conclude that the proposed development would comprise the redevelopment of a previously developed site. However, it would cause substantial harm to the openness of the Green Belt. As a result, I conclude that the proposed development would be inappropriate development in the Green Belt, contrary to Policy GB1 of the LP and the Framework.

Provision of storage and distribution premises

16. My attention has been drawn to a demand for storage and distribution premises within the borough. Redevelopment of the appeal site would result in the loss of accommodation for storage and distribution uses, adding to the demand in the borough and to the pressure to find additional sites. I note that a separate application was submitted for buildings in B1 use on the adjacent

¹ Reference ID: 21a-007-20180615

nurseries site, but has also been refused. My attention has not been drawn to any policies that seek to protect storage and distribution uses.

17. As a result, I conclude that the loss of the appeal site for storage and distribution use would count against the proposed development. However, given the lack of a policy to protect this use, it would be an adverse effect of modest weight.

Other considerations

18. The Council have confirmed that there is not a five year supply of deliverable housing sites within the borough. The proposed development would contribute 14 dwellings to housing land supply in the area, of which 15% would be affordable. This is beyond the 10% that is required by the Framework. Where there is not a five year supply of deliverable housing sites, paragraph 11 of the Framework states that development plan policies that are most important for determining the application are out-of-date. As a result, it states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. These areas of particular importance include the Green Belt.
19. In addition to contributing toward the supply of housing land, the proposed development would create jobs during construction of the proposed development and future occupants would support local services and facilities. The proposed development would be accessible via a variety of means of transport, including being within walking distance of a range of services and facilities.
20. This site has been identified by the Council as being in a Landscape Problem Area. The existing development on the site, including outside storage and parking of HGVs, results in an unattractive appearance to the site that harms the intrinsic character and beauty of the landscape. The proposed replacement with dwellings, surrounded by gardens, would improve the contribution of the site to the character and beauty of the landscape.
21. Between the appeal site and Hurst Lane are residential properties. The living conditions of occupants of those properties would be affected by the activities on the appeal site. Access would remain to the adjacent glasshouses closest to the boundary with those properties. Nevertheless, there would be benefits to living conditions of those neighbours from the redevelopment of this site.
22. My attention has been drawn to the New Homes Bonus and Council Tax income, but how it should be taken into account and its connection to the development is not clear. In these circumstances, Planning Practice Guidance² states that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.
23. The Unilateral Undertaking provides for financial contributions toward education provision to meet the needs of the development. These contributions would be no more than is necessary to meet needs arising from the development. They are therefore a neutral factor in the overall planning balance.

² Reference ID: 21b-011-20140612

Conclusion

24. I have found that the redevelopment of the existing storage and distribution use at Belbourne Nurseries to provide 14 dwellings with associated residential curtilages, parking, turning areas and amendments to the existing access and provision of new footway along Hurst Lane would cause substantial harm to the openness of the Green Belt. As a result, it would not fall within the exceptions to inappropriate development as defined in the Framework. The Framework states that substantial weight should be given to any harm to the Green Belt. In addition, I have concluded that the proposal would result in the loss of a storage and distribution premises. The development is, therefore, contrary to Policy GB1 of the LP and the Framework and the harm to the Green Belt would provide a clear reason for refusing the development proposed.
25. The proposal would add 14 dwellings to the supply of housing in an area where there is not a five year supply of deliverable housing sites, and would contribute toward the provision of affordable housing. Future occupants would support local services and facilities. It would result in benefits to the character and appearance of the Landscape Problem Area and to the living conditions of neighbouring occupiers. These factors can contribute considerable weight in the planning process.
26. Taking all these factors into account, I conclude that the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed, either individually or cumulatively, by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policy GB1 of the LP and the Framework that seek to protect the Green Belt from inappropriate development.
27. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

Quantitative Assessment of Vehicle Movements, Access Challenges and Bridge Structure on Boveney Road: Current and Potential

Trip Generation Analysis:

- The Bucks Council Transport Statement (TS) lacks clarity on existing trip generation, assuming “*an intensification in site usage*”.
- Bucks Council did not request any kind of survey be conducted by the Appellant for this challenging, single track road.
- Anticipated vehicular movements for a development at this location on Boveney Road are estimated at 4-6 per day, totalling 48-72 per day (Bucks Senior Transport Officer). We estimate that this would increase to around 124/day when considering additional factors such as delivery vans (24 movements/day), visitors (24 movements/day), and utilities (4 movements/day).
- Boveney Road residents conducted a survey during March using cameras installed within residents' properties, revealing an average of 241 current vehicle movements/day:

Week Day	Date	Cars	Vans/Lorries	Total
Saturday	9th March	341	25	366
Sunday	10th March	230	15	245
Tuesday	12th March	106	33	139
Wednesday	20th March	238	23	261
Thursday	21st March	131	26	157
Friday	22nd March	242	38	280
Totals		1288	160	1448
Current Average Movements/day				241
Forecast Site Movements/day				124
Total New Movements/day				365
Site traffic increase on Boveney Road				51%

- Consequently, adding 124 vehicle movements represents a significant increase from the current average of 241 movements/day to 365, marking a surge of over 50%.

Local Highway Network Accommodation:

- While the anticipated level of movements may be accommodated within the overall Local Highway Network, the significant impact of 50% more vehicles on Boveney Road which is a one kilometre, single track road with no passing places is simply unacceptable for the existing users of the road.

Road Width and Access Challenges:

- Guidelines suggest a road width of 5.5m - 7.3m for a single carriageway road with two lanes of traffic. This is not Boveney Road.
- A single track road is defined as a single lane with passing places for traffic in both directions. This is not Boveney Road either. Measurements confirm a varying road width from ~3.8m to 5m, **with no passing places**.
- The Savills Commercial Market Report highlights “*poor access along Boveney Road, which is approximately 4m wide and insufficient for two commercial vehicles to pass. This restriction affects tenants' ability to receive goods delivered by large vehicles, potentially impacting*

accessibility for B8 operators and others.” It should be noted, in the survey, that nearly 30 vans/lorries went up and down this road per day, with the resulting traffic chaos.

Bridge Structure Concerns:

- Boveney Road passes over Cress Brook on the southern side of Dorney Common, raising concerns about the bridge structure's ability to bear increased traffic loads (esp. EVs)

NPPF Requirement and Assessment:

- NPPF Requirement 117 necessitates a travel plan supported by a transport statement or assessment for developments generating significant movement, [such as a 50% increase in movements].
- No such documentation has been provided by the Appellant, leading to reliance on an inaccurate and incomplete assessment from the Transport Officer, and no quantification of the current traffic.

Dorney Parish Council Comment: Given the concerns regarding significant additional traffic resulting in access challenges, bridge structure capacity, and the lack of comprehensive documentation as per NPPF requirements, it appears that Boveney Road is not fit for purpose for the additional 12 houses proposed for this site.

Serious concerns regarding the visibility splays at the exit from the site

In the [letter dated 16 December 2022](#) from the Senior Highways Officer it states:

*As Boveney Road is subject to a speed restriction of the National Speed Limit, **visibility splays of 2.4m x 151m are applicable**, commensurate with current Manual for Streets guidance. **Whilst these splays are not achievable from the proposed access point**, given the nature of Boveney Road in this location, and that Boveney Road culminates in a dead-end close to the application site, **I consider that adequate visibility splays can be achieved from the existing access point. However, it will need to be upgraded to a commercial access specification. An application to the Secretary of State for Rural Affairs will need to be made to both upgrade the access point and to secure the visibility splays from the access point in perpetuity, as the access point would fall within Common Land.***

We also have a 46 page Transport Statement from Stantec which contains a number of factually incorrect statements or omissions.

Their statement regarding the visibility splays is as follows:

5.3.2 The maximum achievable visibility splay 2.4m x 40m has been illustrated to the south of the site. This equates to a speed of 29mph in accordance with DMRB which we consider to be acceptable given the nature of the proposals and its location. Boveney Road is a single carriageway narrow road, a no through route and only provides access to the small number of residential dwellings and secondary access to Dorney Lake. The majority of traffic to Dorney Lake accesses from the east from Courts Lane, where it is signposted from the B3026 and therefore Boveney Road remains lightly trafficked. The tight bend to the south also acts to slow vehicles down and therefore vehicles will not be driving at excessive speeds on approach to the access to the site.

5.3.3 To the north the maximum achievable visibility within the highway has been illustrated. Visibility of 2.4m x 117m is achievable in accordance with speeds of 43mph to DMRB standards.

5.3.4 As noted in section 3, Boveney Road has an excellent highway safety record and there has been no recorded accidents in the last fifteen-year period. The development is not going to intensify the use of this road substantially and therefore there will be very little if any impact on the safety of this road.

With considerable local knowledge, including from the residents who live next to the site, let us consider the realities of the visibility splay and the factual inaccuracies contained in both of these statements, which lead to our serious concerns.

The legal visibility splays are certainly not achievable – and the reasoning is lacking for the following reasons:

- There is a sharp bend (approximately 130 degrees) where Boveney Road turns into the Lock Path Road. This is approximately 40m beyond the entrance of Boveney Court Farm exit.
- This bend, approaching along Lock Path, is already a dangerous spot as there is no way of seeing what is coming around the corner.
- From time to time, we have seen motorcyclists and quad bikes coming along Lock Path and Boveney road (in both directions) and travelling at a speed much greater than the road really allows, however still within the 60 mph limit. Whilst we have not had time to provide quantitative data, as locals, we do have considerably more experience of the daily situation.
- This bend is a busy spot, especially during the summer months, when there is a lot of traffic heading to the Boveney Ramblers car park for dog walking etc. This is combined with many walkers; horse riders, cyclists (Eton schoolboys use the entrance to Dorney lake that is on this bend at the junction of Boveney Road and Lock Path. There is no secondary access to Dorney Lake, except for cyclists.
- None of these professional reports mention that there are around 200 cattle free ranging on Dorney Common from April to October every year. They have right of way on the roads that cross the Common. Unfortunately, a number are killed every year by vehicles travelling too fast – especially at night. So, the comment that there have been no deaths on Boveney Road is incorrect. Regrettably over 30 cattle and calves have died on roads crossing Dorney Common over the last 15 years – some on Boveney Road.
- An increase in traffic from Boveney Court Farm will only increase these dangers and the likelihood of a road traffic accident will be much greater.

Dorney Parish Council Comment: Given the evidence of residents, it appears that using a low, unsafe speed of 29mph would be, in our opinion, extremely dangerous and could lead to collisions involving serious injuries and/or fatalities. We believe that the visibility splay required at speeds between 36 and 40mph on a country road should be approx. 65 metres. Should a professional traffic survey demonstrate that the 65 metre splay (or any splay corresponding to speeds greater than 29mph) be required, which we believe could be the case, the site exit point would not be acceptable and the planning appeal dismissed.

Insufficient, legally required, onsite Parking Spaces

We have three serious concerns with regard to the number of parking spaces in the planning application:

1. Incorrect Zoning
2. A miscalculation of required parking spaces
3. An unacceptable, arbitrary reduction in the legally required number of parking spaces.

1. We believe that the correct Zone for such an isolated, rural hamlet as Boveney should be Zone C and not Zone B (Dorney Parish). This is supported by the following documents:

- [Bucks Council: Parking Guidance for New Developments](#)
 - **Paragraph 4.1 Zoning - residential car parking**
 - ***The boundaries of the zones are not intended to be applied rigidly, and the flexibility of the guidance creates the opportunity to consider local circumstances, so that different zone's standards can be applied where appropriate. For example, any extension of development should be treated as part of that urban area. Another example is mixed urban and rural wards, where some parts should be treated as Zone A and others as Zone B or C.***
 - There appear to be some inconsistencies in the allocation of Zone B and Zone C in certain areas. Seer Green pop 2311 is classified as Zone C even though it is only 2.5Km from Beaconsfield, whilst Burnham South and Dorney pop 1541 is classified as Zone B, even though Boveney is 3.3km from the main Burnham population centre. Burnham South and Boveney are chalk and cheese.
- [Highways Development Management letter dated 16 December 2022](#)
 - ***The site is located outside of the built up area, in a remote location, remote from any local services, footpaths and public transport links, the site is not considered sustainable in the context of the requirements of the NPPF and would be reliant on the use of the private motor vehicle, against the aims of local and national policy. However, it is recognised that other policies of the Framework support the principle of farm diversification and that accessibility to non-car modes will not be as good in rural areas as it will in urban areas. The diversification vs sustainable development issue may be a matter that you need to weigh in the planning balance.***

2. We are concerned that the Highways Officer has miscalculated the number of required parking spaces for this proposed development:

- Highways Officer statement in [Highways Development Management letter dated 16 December 2022](#)
 - *When considering parking provision, I note that the site would comprise of 2x2 bed units, 6x3 bed units and 4x4 bed units. As this is the case, given the sites Zone B location in accordance with the Buckinghamshire Countywide Parking Guidance, 28 parking spaces would be required to serve the development, plus two visitor spaces, resulting in an overall requirement for 30 parking spaces to be provided. The proposed site plan demonstrates 28 spaces within the site, however there appears to be space within the site in which additional vehicles could park. I am therefore satisfied that adequate parking provision has been provided in this instance.*
- During the Planning Committee meeting considering the application, a number of the members asked questions about the number of parking spaces – as they appeared to be concerned that the number of 28 spaces for 38 bedrooms was incorrect.
 - a. We have subsequently asked a resident mathematician and an engineer to check the numbers against the standards laid down for the proposed houses and bedrooms in a Zone B site.
 - b. Both of them came up with the requirement being 32 spaces (not 30). If the Zone C classification applied, which we believe it should, then the number of spaces would increase to 38.
- Given the above, as we are not experts, we have sent a request on 5 March 2024 to the Highways Department in order to clarify these potential errors:
 - a. *“I am conducting research on the appeal regarding this planning application for Dorney Parish Council. Attached is a copy of a letter between the Senior Highways Officer and the Planning Department dated 16 November 2022. I have marked paragraph 5 which addresses the number of parking spaces required for this development - which indicates 28 spaces are required for the number of bedrooms and an additional 2 for visitors, making a total of 30.*

*The letter states that the location is in a remote, rural position. Given that fact, please advise why a Zone B classification has been ascribed to the location rather than a Zone C. I note that [the Bucks website states](#) "The boundaries of the zones are not intended to be applied rigidly, and the flexibility of the guidance creates the opportunity to consider local circumstances, so that different zone's standards can be applied where appropriate. For example, any extension of development should be treated as part of that urban area. **Another example is mixed urban and rural wards, where some parts should be treated as Zone A and others as Zone B or C.**" This appears to indicate that a Zone C classification would have been more appropriate. I would appreciate the reasons for this isolated, rural location being classified as Zone B.*

In paragraph 5, I concur with the number of units and bedrooms, however, using the prescribed calculation for the relationship between bedrooms and car parking spaces in a development of more than 10 dwellings (which this is), I am unable to get the parking calculation to 28 spaces and 2 visitor spaces. My calculation, for a Zone B classification, comes to 26 spaces plus 20% visitors which is 32 (rounded up). For a Zone C classification it is 31 spaces plus 20%, which would be 38 spaces. I realise that I may have allocated half spaces incorrectly - but even then I can't get to the 28 and 30 spaces in the letter.

I would be most grateful if you could clarify the position on each of these as soon as possible..."

We have not yet received a response.

3. We have seen no evidence that *"there appears to be space within the site in which additional vehicles could park"* as stated by the Highways Officer, thus permitting a legally required number of parking spaces (be it 30, 32 or 38) to be arbitrarily reduced to 28 spaces. We are unable to identify any specific additional parking areas on the site plan and the Highways Officer only states that *"there appears to be space"*. This is, frankly, unacceptable. We understand that:
 - a. The roadways in the site are at the absolute minimum recommended width of 4.8 metres. A parked vehicle by the kerb could block emergency vehicles.
 - b. An SUV type vehicle has an average width of approx. 2 metres.
 - c. The space in front of Barn A is not within the site and could well be converted into parking or a garden for that property in future.
 - d. There are no specific additional spaces allocated or marked on any plan.

Dorney Parish Council Comment: Given this totally unsatisfactory situation in a proposed site that, according to Bucks Council, is remote, is not considered sustainable in the context of the requirements of the NPPF and would be reliant on the use of the private motor vehicle, against the aims of local and national policy, there is no other conclusion that the 28 designated parking spaces in the planning application appears to be flawed on this critically important issue.

The impact on openness throughout the site from domestic paraphernalia

The Pre-Application Advice Letter from Bucks Council 17 September 2020 stated:

Green Belt

*As discussed, under para. 145 (g) of the NPPF, any application needs to demonstrate that it would have no greater impact upon the openness of the Green Belt than the existing development on the site, or, if a 40% provision of affordable housing was being provided on site, **would not cause substantial harm to the openness of the Green Belt.***

*With regard to the proposed residential use of the site, **it is considered that it needs to be demonstrated that the use of the site for this number of dwellings, would not have a greater impact than that of the lawful storage use of the site. Increases in the intensification at which the site is used, together with increases in vehicular movements and associated activities can all adversely impact upon the Green Belt. The introduction of residential curtilages and garden paraphernalia will also impact upon its openness.** It is considered that any application should be accompanied by details that set out a comparison between the existing and proposed uses, including details of the level of vehicular movements associated with each use; the level of activity that could and would occur on the site, as well as the nature of those activities.*

Appellant's Design and Access Statement:

Bin Stores

5.13 Waste Strategy Statement

Bin stores have been introduced as part of the waste management of the site. Suitable provision has been designed according to the Waste Management Planning Guide of the Joint Waste Team of Buckinghamshire Council. Appropriate space has been provided for 240L wheeled bin for general waste, 240L wheeled bin for recycling, 44L box for paper recycling and 23L bin for food recycling per house. The visual impact of the bin stores is minimised by the use of low-level brick walls and timber fencing [maximum 1.8m high] for screening.



Bin Stores Plan

Cycle Stores

5.8 In terms of cycle stores, private lockable cycle stores will be located in the private gardens of the units. All 2/3 bed units require at least 2 cycle parking spaces and all 4 bed houses at least 3 cycle spaces. The cycle stores shown on the site plan (drawing 5540-1102-F) [Unfortunately missing from Planning website] are based on prefabricated secure and lockable stores that can accommodate up to 3 bicycles.

Fencing (residential curtilages)

We have been unable to establish what structures will be separating the 12 gardens. We are assuming that it will be 1.8m fences throughout the site.

Motor Vehicles

Inevitably, there will be a collection of different types of vehicle parked throughout the site – ranging from saloon cars, SUVs, Vans, Mobile homes and Caravans.

Dorney Parish Council Comment: All of the above will, once the proposed houses are built, further harm the openness of the site. The cumulative effect of the new houses and the range of “domestic paraphernalia” (as described in the Bucks Council’s Pre-Application Advice letter in 2020) will contribute significantly towards the substantial harm to the Green Belt, in our opinion.

Concerns regarding Garden Sizes

The last Government Policy regarding garden sizes was issued in 1973, as far as we can determine. It stated:

The 1973 Design Guide required a minimum private (i.e. rear) garden size of 100m² for most types of houses. This provision has been found to be an acceptable and workable minimum size that accommodates most household activities and is at the same time adequate to offer visual delight, receive some sunshine, and encourage plant growth. Storage sheds and space for drying areas and wheeled bins are often required. Allowance should be made within the scheme design. The BRE report "Site Layout Planning for Daylight and Sunlight" recommends that certainly no more than two fifths and preferably no more than a quarter of the garden should be prevented by buildings, walls or fences from receiving sunshine on 21 March. The 100m² minimum garden size is easily achievable for three or more bedroom houses provided the houses are of wide frontage format, but narrow fronted houses may result in longer, narrower gardens. Given the constraints of rear access this can be a reason for minimising the use of this type of house. Generally, designers should try to create as far as possible usable rectangular garden shapes. Some local authorities may have different minimum garden sizes, and applicants should consult the relevant District Council Planning Department.

Houses of One or Two Bedroom Size. Such houses usually have such a small footprint that provision of a 100m² garden is not practicable without being excessively long and thin. In any case, since these are dwellings for smaller households the requirement by residents for garden area is less. Different local planning authorities have varying garden size standards for one and two-bedroom houses. **50m² is the most common**, but applicants should consult the relevant District Council Planning Department.

The garden areas of the proposed properties have been calculated from the plans provided as follows:

Proposed Garden Sizes and Bedrooms			
Building	Bedrooms	sq metres	sq m /bedroom
B	2	361	181
C	2	75	38
D	3	105	35
E	3	148	49
F1	4	138	34
F2	4	77	19
G	3	122	41
H	4	84	21
J	4	69	17
K	3	208	69
L	3	113	38
M	3	245	82

The following conclusions may be drawn from the above guidelines and figures:

- The number of dwellings is excessive for a small site such as this.
- The configuration of the existing buildings was designed for a farm – not for a housing estate. There never was going to be sufficient room for adequate gardens for existing Buildings C, D, E, F1, F2 and G. H & J suffer dramatically from very small gardens given their proximity to Boveney Court Farmhouse’s boundary fence.
- Barn B and, to an extent, Building K are well provided with garden space, all of the others suffer, some significantly.
- Houses F2, H and J are below the 100sq m guideline.
- House C will struggle to receive much sunlight on 21 March.
- House F2 has too little garden area (split into 2 plots) and will definitely struggle with daylight on 21 March.
- The 4 bedroom H and J Houses appear to suffer with garden size with 84m² and 68.6m² respectively.

Appellant’s Design and Access Statement

5.10 Provision of Private Garden Spaces

*As per the [Residential Design Guide of the Buckinghamshire Council](#), and more specifically paragraph 5.7.6, it is stated that “all houses should have an enclosed private garden”. **Even though there is no specific recommendation on the size of the garden, they should be commensurate with the size of the dwelling.** All proposed units of the proposed development have private garden of **adequate size** to accommodate trees and planting, and provide outdoor sitting areas, play areas for children, and space for drying of clothes. **The private garden of Unit F2 is split into two separate spaces. Its size has been reviewed after the comments received via the pre-application advice providing a better and larger space that can accommodate for play, sitting and planting area.***

Dorney Parish Council Comments: It is unfortunate that Bucks Council does not provide more quantitative guidance for garden sizes. We have serious concerns that, given the fact that 12 houses are squeezed onto a tiny amount of land (at 21 dwellings/ha), many of the houses will end up with “postage stamp” sized gardens with 1.8m high fences. This will add to the sheds and other domestic paraphernalia that will encroach upon the current openness of the site.

Failure by Bucks Council and the Appellant to consider Light Pollution planning guidelines.

We are very concerned that such an important planning issue as Light Pollution in this location only received a one line “throw -away” statement in the Appellant’s [Design and Access Strategy](#), given the Dark Sky situation of Boveney:

5.11 Lighting

The street lighting in the area is subtle and the proposed development does not intend to cause light pollution.

The Appellant’s lighting plan does not consider that this is a ‘dark sky’ environment and they have not demonstrably ensured no damage/light pollution to that environment. Specifically, they have not referenced government guidelines, and government documented best practice and guidance.

Furthermore, Bucks Council failed to address this important issue in the Pre-Application Advice provided in their letter of 17 September 2020 or seek to ensure that the necessary Bortle Scale survey be completed during the five year planning process prior to submission.

The [Lighting in the Countryside: Towards Good Practice](#) (Countryside Commission) and [Artificial Light in the Environment](#) (Royal Commission) Reports both address this issue in detail.

Extracts from Artificial Light in the Environment state:

2.10 The logic of dark-sky parks is appealing, but they need not be confined to remote areas where implementation is relatively easy; they can also play a role in areas closer to centres of population, even if these parks cannot attain the levels of pristine darkness of the more remote areas.

*2.11 While most attention is paid to significant unlit areas in rural locations, there are also many low light areas in suburban locations **which should be protected from light ingress**, to counter the tendency to more light everywhere.*

UK Government Guidelines

What light pollution considerations does planning need to address?

Artificial lighting needs to be considered when a development may increase levels of lighting or would be sensitive to prevailing levels of artificial lighting. Artificial light provides valuable benefits to society, including through extending opportunities for sport and recreation, and can be essential to a new development. However, for maximum benefit, it is important to get the right light, in the right place and for it to be used at the right time.

*Artificial light is not always necessary. It has the potential to become what is termed 'light pollution' or 'obtrusive light', and not all modern lighting is suitable in all locations. **It can be a source of annoyance to people, harmful to wildlife and undermine enjoyment of the countryside or the night sky, especially in areas with intrinsically dark landscapes.** Intrinsically dark landscapes are those entirely, or largely, uninterrupted by artificial light. **National parks [such as Dorney Common] and nature reserves can serve as good examples, particularly where they support habitats for native nocturnal animals.** Lighting schemes can also be costly and difficult to change, so getting the design right and setting appropriate conditions at the planning stage is important.*

Dorney Parish Council Comment: We strongly support the Government's position on Light Pollution, especially as it affects Boveney. We believe that, if the appeal is not dismissed, the Appellant should conduct a suitable light pollution survey and show that the planned housing development does not increase the current measurement. We have included this in our suggested List of Conditions in such a case.

Suggested Conditions

Without prejudice to the above, if the Inspector is minded to allow the appeal, it is respectfully requested that the following conditions and reasons are included:

1. Appellant to pay for the cost of resurfacing Boveney Road/Lock Road for additional 50+% of traffic
 - a. 1,500 m x 4m x £50/sqm = £300,000 as a S106 contribution
2. Appellant to repair c. 10 driveways used as passing places.
 - a. 10 x £3,000 = £30,000 as a S106 contribution
3. Bucks Council Pre-Application Advice 17 September 2020: *“There should also be a s. 106 Agreement such that [the listed building A and curtilage listed] Blocks C - D - E are refurbished and repaired and made habitable prior to any first occupancy of the remaining Blocks or new build elements. This is to ensure that any commercial uplift in the site goes first and foremost towards the restoration of the listed buildings, in support of our corporate objectives for conservation.”*
4. Appellant to permit all resident traffic to divert via Dorney Lake during Boveney Road resurfacing/repair schedule, as they have done previously.
5. No further development on the Boveney Farm entire site, including the 14 acre field adjacent.
6. Further extensions to all of the properties on site are not permitted.
7. Landscaping plan – trees
 - a. Planned trees on the site and within gardens cannot be removed.
 - b. At least 70% of the trees proposed as part of the landscaping plan should be evergreen.
 - c. All of the trees proposed should be mature specimens i.e. over 9 feet.
 - d. All trees on site to be covered by TPO consistent with a Conservation Area.
8. Privacy for Boveney Court Farmhouse:
 - a. Windows overlooking Boveney Court Farmhouse in buildings C & D should be removed. If windows are retained, they should be non-opening, and have obscured glass.
 - b. Window overlooking Boveney Court Farmhouse in Building E should be obscured glass.
9. Garden fencing for Buildings B, K, L & M facing Boveney Road should be post and rail in keeping with current fencing facing Boveney Road and not 1.8m solid fencing.
10. Appellant to conduct a suitable light pollution survey and show that the planned housing development does not increase the current measurement.
11. No further external lighting (including security lights) permitted on the site.



Directorate for Planning, Growth and Sustainability

King George V House, King George V Road, Amersham, Bucks HP6 5AW

planning.csb@buckinghamshire.gov.uk

01494 732950 | 01895 837210

www.buckinghamshire.gov.uk

Mr Ashkan Liaghat
Savills
33 Margaret Street
London
W1G 0JD

Officer: Richard Regan

Email: planning.csb@buckinghamshire.gov.uk

Tel: 01895 837273

Ref: PQ/20/40270/PREAPP

17 September 2020

Dear Mr Liaghat

Application type: Pre-Application

Location: Boveney Court Farm, Boveney Road, Dorney, Buckinghamshire, ,

Proposal PRE APPLICATION ADVICE - CONFIDENTIAL: To provide a total of 13 new residential dwellings through the conversion of eight storage buildings (Class B8) to Class C3 residential and the erection of five no. new Class C3 residential buildings.

I write further to your request for pre-application advice regarding the above which I received on 9th June 2020. On the basis of the information submitted, I would advise as follows:

Relevant Development Plan Policies

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

South Bucks Core Strategy Development Plan Document - Adopted February 2011: Saved Policies CP1, CP2, CP8, CP9, CP10, CP12, and CP12

South Bucks District Local Plan - Adopted March 1999 Consolidated September 2007 and February 2011: Saved Policies GB1, GB2, GB4, C1, C6, EP3, EP4, EP5, EP6, H9, L10, TR5, and TR7

Chiltern & South Bucks Draft Local Plan 2036 (2019)

South Bucks District Council Residential Design Guide SPD - Adopted October 2008

Chiltern and South Bucks Townscape Character Study 2017

The NPPF was revised on 19th February 2019 and whilst this replaced the previous Planning Policy Statements and Guidance Notes, it does not replace existing local policies that form part of the development plan. It does state however, that the weight that should be given to these existing local policies and plans will be dependent on their degree of consistency with the NPPF. Therefore, the closer the policies in the development plan to the policies in the Framework, the greater the weight that may be given to them.

In addition to this, the publication version of the Chiltern and South Bucks Local Plan 2036 was approved at Council on 14 May 2019 and it was agreed that this should be endorsed as a material consideration in the determination of planning applications. It was submitted for independent examination on 26 September 2019. The amount of weight that can be attributed to the draft Local Plan will depend on how advanced the submission and examination process has reached, at the time of an application being submitted. At this moment in time, it is considered that only limited weight can be attached to it.

Principle of development

The site falls within the Green Belt and therefore the types of development that are deemed acceptable are very limited. Policy GB1 of the Local Plan, together with the National Planning Policy Framework (NPPF) set out the types of development that are deemed acceptable. It is acknowledged that the Council's Local Plan pre-dates the NPPF therefore where there is a conflict between the policies, the NPPF takes precedence.

Para. 145 (g) of the NPPF advises that redevelopment of land that is designated as 'previously developed land', can constitute an appropriate form of development provided that it does not have a greater impact on the openness of the Green Belt or its purposes, than the existing development on the site. It also sets out that if a development were to contribute towards an identified affordable housing need, then the redevelopment of previously developed land would be assessed against whether it had a substantial harm to the Green Belt. The NPPF also allows for the re-use of buildings within the Green Belt and the extension of existing buildings provided that they do not result in disproportionate additions.

The starting point is to establish whether the site constitutes 'previously developed land'. Following the issuing of a Certificate of Lawfulness for the existing use of the site for storage purposes, it is considered that the proposed application site does constitute previously developed land. As such, it is my view that the principle of the development does fall within the exceptions for development within the Green Belt. It is important to note that if the site does include land that is not covered by the Certificate, then any proposal would revert to being inappropriate development within the Green Belt.

Green Belt

As discussed, under para. 145 (g) of the NPPF, any application needs to demonstrate that it would have no greater impact upon the openness of the Green Belt than the existing development on the site, or, if a 40% provision of affordable housing was being provided on site, would not cause substantial harm to the openness of the Green Belt.

With regard to the proposed residential use of the site, it is considered that it needs to be demonstrated that the use of the site for this number of dwellings, would not have a greater impact than that of the lawful storage use of the site. Increases in the intensification at which the site is used, together with increases in vehicular movements and associated activities can all adversely impact upon the Green Belt. The introduction of residential curtilages and garden paraphernalia will also impact upon its openness. It is considered that any application should be accompanied by details that set out a comparison between the existing and proposed uses, including details of the level of vehicular movements associated with each use; the level of activity that could and would occur on the site, as well as the nature of those activities.

In terms of built form, as discussed, it is my view that the openness of the Green Belt could be adversely impacted upon by buildings H, J, K, L, and M due to the increase in floorspace that they provide, as well as their height, scale and massing, and also the spread of these dwellings. These dwellings are replacing a single existing open sided barn with two separate solid structures, which have a greater height than the existing barn, and are considered to have a greater bulk and massing. In addition to this, the built form on the site would be spread across a greater extent of the site, which adversely impacts upon the openness of the Green Belt. It is important to note that historically demolished buildings are not relevant to the assessment of openness.

As such, when assessing the proposal against whether it has a greater impact upon the openness of the Green Belt, then I would currently raise concerns that it does, mainly due to the increase in built form as well as its spread. As discussed however, the threshold for this impact assessment is reduced if a policy compliant level of affordable housing is being provided, as this only requires the scheme to not have a substantial harm to the Green Belt.

Loss of Employment

As discussed, as the lawful use of the site is B8 storage, this constitutes an employment generating use, and therefore policy CP10 of the South Bucks Core Strategy is applicable. Core Policy 10 sets out the Council's desire to retain existing employment sites. It advises that existing employment land and premises (such as this site) will be retained in employment use. In limited circumstances however, Core Policy 10 does provide for the reuse or redevelopment of 'other employment sites' (i.e. this site) for alternative economic uses. These limited circumstances include where there is no reasonable prospect of a site being used for the permitted purpose. A footnote to Core Policy 10 states 'In seeking to demonstrate that there is no reasonable prospect of a site being used for the permitted purpose, the applicant will need to have undertaken a prolonged period of unsuccessful marketing, using details approved by the District Council.'

Guidance Note -Marketing Requirements in Relation to Core Policy 10 The Council have published a Guidance Note on the Marketing Requirements in Relation to Core Policy 10 (Employment). This advises that vacant premises or sites should be continuously marketed for at least one year, although a longer period of marketing may be appropriate for larger sites, or where the economic climate is more challenging. The Guidance Note confirms that the Council will not normally accept marketing evidence obtained whilst a premise or site is occupied.

It is acknowledged that during our discussions it was argued that the existing buildings were not suitable to meet the needs of modern B8 uses and that a marketing exercise was not required to justify this. It is my view that any future application should be accompanied by evidence that shows that there is no demand/interest in these units for their lawful B8 use, and the reasons why, be that due to the size of the buildings, their condition, or how accessible they are.

As such, any application of the nature proposed should address policy CP10, providing a marketing statement that sets out the justification for the loss of the existing B use class on site, as well as providing evidence of why the site is unsuitable for redevelopment for alternative economic uses.

Design/Character/Appearance/Historic Impact

It is acknowledged that all buildings bar the existing open-sided barn, would be retained, with two new blocks of dwellings. From a general planning point of view, my thoughts are that the height of these buildings appeared excessive and out of keeping with the existing building heights on site. Concern was also raised with regard to the lack of a suitable private garden space for Barn A. The detailed comments of the Councils Heritage Officer are as follows:

"Boveney Court Farm contains two barns that are listed in their own right:

Marked as A on the proposed site plan

4/21B Barn on south side of farmyard at Boveney Court Farm - GV II

Barn. C17 altered. Timber-framed with massive main timbers, posts set on sole plate on old brick plinth. Lower panels infilled with brick, some of which is C18, some older, tarred externally. Upper parts of walls weather-boarded. Old tiled roof, half-hipped at west end. Five bays. Large projecting gabled cart entrance in centre of south side with pigeon holes in gable. North elevation has 3 stable doors and 4 windows. West gable has timber framing with brick infill and one window at high level. Modern lean-to at east end and at north-east, neither of special interest. Interior: large jowled posts with deep curving braces to heavy tie-beams carrying queen struts supporting collars. Curved windbraces to purlins, old rafters without ridge piece. Inserted loft floors in some bays.

Listing NGR: SU9365177812

And

Marked as B on the proposed site plan

SU 97 NW 4/21A

DORNEY BOVENEY ROAD Barn on north side of farmyard at Boveney Court Farm

GII Barn.C17/early C18.Timber-framed with some exposed posts and tarred brick infill but mostly weather-boarded.Old tiled roof.Three bays.Full height cart doors in centre of south side.Interior has similar trusses to the barn on south side of farmyard at Boveney Court Farm(q.v.)but with more slender timbers and the curved braces not so well formed.Queen strut trusses with collars,curved windbraces,some missing.

Listing NGR: SU9365577837

The Blocks C, D & E could all qualify as curtilage listed structures of Boveney Court, whilst Blocks F & G are of interest as agricultural buildings. Two new build elements are proposed: H-J and K,L,M. The entire site lies within the Boveney Conservation Area.

The buildings are all used as storage at the moment. The proposal is to create a new residential development, with a mixture of conversion and new builds.

From a statutory point of view, the primary legislation contained within ss. 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This states that regard must be had to the preservation of listed buildings and the enhancement of the conservation area. The NPPF in paras 193-197 cites the need to have regard to the conservation of heritage assets and also the need for any degree of harm to be clearly justified by overriding public benefits.

In this situation, although the barns are well suited to their storage use, the deteriorating condition of barn A is a cause for concern. To fully refurbish this structure as part of a residential conversion may therefore provide some public benefits in terms of preservation. Barn B has already been restored to a reasonable standard, complete with new plinths etc, and what looks like a bat box in its upper storey.

Blocks D & E comprise a barn of high significance, and together with Barn B comprise the most historically and architecturally important elements of the site. Nonetheless, the other blocks are also of interest and all contribute towards creating an interesting and significant traditional farm complex within the historic setting of Boveney - at its core a mediaeval village close to the Thames. The main historical links are with Boveney Court - the -ey (island) Anglo-Scandinavian suffix indicating that the settlement was constructed on slightly higher ground that remained predominantly dry even when periodic flooding occurred across the surrounding areas.

The site is generous in terms of its boundary and sits within open countryside, with some other housing and buildings lying around the periphery of the site and closer to Boveney Road. Given that the additional development is fairly modest in its scope, and that the great majority of the accommodation proposed is to be contained within the existing agricultural buildings, I believe that the impact of the new blocks is minor, and can be further reduced through some design changes.

In short, I would argue that the harm posed by the development as it is presently configured is minor, and that in essence it could be accommodated on the site without an unacceptable level of harm being incurred.

Taking the elements in turn:

It is difficult to try and interpret the floor plans without sections being provided. The first and most necessary step is to produce CAD drawings of the existing buildings, and to relate the conversion to them, so that the removal or alteration of the fabric and the timber frame can be readily appreciated and understood. The architects will therefore have to produce accurate drawings of the timber frame, with a schedule of interventions clearly annotated - green for the timbers that are to be retained, orange for strengthening, yellow for repair, red for replacement. It is also not possible to consider the potential for conversion at first floor, without having section drawings available. No principal timbers or those within the trusses may be cut.

Importantly, all aspects of the conversions will need to correspond with the guidance contained within the Historic England publication, *Adapting Traditional Farm Buildings*. The essence of the document is aimed at ensuring that any changes respect the stark, industrial character of farm buildings and their surroundings, avoiding the dominance of domestic details or features wherever possible. As noted in the minutes provided by the agents, particular attention will have to be paid to the use of hygroscopic, biomass-based insulation, with either lime plaster or (dado) timber bead and plank panelling for the interiors. All upper floor rooms should be open up to the ridge, with any vertical divisions rising up to meet the purlins / collars / trusses.

The principal elements of the frame shall be on show, with only the studs and intermediate rails / secondary rafters being covered with insulation. All the framing within the area of the midstrey need to be on view. All insulation should be applied within the thickness of the frame, with only osb and new weatherboarding being added over the exterior of the frame. The drawings supplied will need to show how the plinths are to be rebuilt, and the new slab foundations are to be constructed. No concrete may be used in the new floors, only limecrete. Any first floors should be built as independent structures, using exposed steel and timber elements in a raw finish with intumescent paint where possible.

If there are to be any double height spaces, these should be in the midstrey ideally. Domestic style openings and windows and doors will have to be avoided. In terms of interior fit out - usually quarry tiles for the kitchens, travertine for the bathrooms and solid hardwood flooring for the living rooms, bedrooms and circulation areas / ancillary rooms. We will need to know where and how the building services are to be located: air-sourced heat pumps will be suitable and will avoid the need for external balanced flues and air-conditioning condensers as they will be able to provide cooling as well as heating. The location of any solar panels in the roof will also need to be

thought about carefully. The roof coverings here must be handmade clay peg tiles of a superior type as they will be much in evidence.

We will require a detailed methodology for the underbuilding of the barns, structural repairs, including the type of joints to be used. All windows and doors should be in either steel or hardwood; conservation rooflights only.

Block A - the grade II listed Barn. At present, this backs directly onto the boundary with the farmhouse at Boveney Court Farm. This poses difficulties for maintenance of the fabric. It would be better therefore, if this building could be moved 2m further into the site, providing sufficient curtilage for maintenance and repair in the future. Any such operation should of course be accompanied by a full method statement covering dismantling and re-erection of the building. This is less controversial than might be assumed, since timber frame buildings were generally pre-constructed within a timber yard, before being dismantled and carried to site for their ultimate construction. Archaeology and recording would need to be carried out as part of this process. Alternatively, it could be left in its present location, and negotiations undertaken with the owner of the neighbouring property about its reconstruction and repair.

In terms of the layout, that for A generally works with the frame, the presence of the two staircases ensuring that the frame does not need to be cut. The Guest suite seems anomalous however - the living room should in my view be making the most of the well-lit aspect looking westwards. The building is in a poor condition, and is suffering from structural issues - it is a building at risk and is a priority for refurbishment and repair.

Block B - this structure has already undergone restoration and refurbishment, with the void being located in the central area, and the conversion proposes only a modest number of changes.

Block C/ D / E - the dividing line between the two units is logically placed at the point of the truss, and both units appear to work well. The demolition of the walls will require particular justification.

Block J - H - this domestic style house is inappropriate in this farm setting, and should be replaced by something more agricultural in form. Needs chimneys.

Block F - G - seems appropriate in its form, working within the envelope.

Block K - L - M should be re-oriented preferably through 90 degree to be brought further away from the listed building. If this is to be terrace of farm cottages, it will require a chimney for each. A hipped roof form would perhaps be better.

As previously discussed, the project will require a detailed landscaping, lighting, access and security plan.

There should also be a s. 106 Agreement such that the listed building A and Blocks C - D - E are refurbished and repaired and made habitable prior to any first occupancy of the remaining Blocks or new build elements. This is to ensure that any commercial uplift in the site goes first and foremost towards the restoration of the listed buildings, in support of our corporate objectives for conservation. "

Affordable Housing

In line with the NPPF, given nature and scale of the development, the Councils Affordable Housing Policy CP3 would be applicable in this instance. This policy requires that any schemes of 5 or more dwellings (gross) provide 40% of the proposed units as affordable housing unless it can be successfully demonstrated that this level of affordable housing is economically unviable. The starting point would be for onsite provision unless strong evidence can be produced that demonstrates that for sound planning reasons that this is not appropriate or feasible. Any such justification would need to include evidence that demonstrated that Local Housing Associations had been approached to obtain a view from them as to whether they consider the location appropriate for such housing and whether they would be willing to take on any of the proposed units. If it is proposed to provide less than the required 40% affordable housing provision (either on-site or off-site), an independent financial viability appraisal will need to be submitted with the planning application. I refer you to the Councils adopted Affordable Housing SPD, which is available to view on the Councils Website, and which sets out what needs to be submitted and included in such an application

Residential amenity

With regard to potential impacts on neighbouring properties, it should be ensured that the proposed development would not lead to an unacceptable loss of privacy to the existing adjacent residential properties, or that they appear overdominant or obtrusive, or lead to a loss of light. It is my view that given the nature and layout of the proposed development, it should not lead to any unacceptable impacts on the amenities of any neighbouring properties.

Parking/highway implications

In terms of parking provision, residential properties would need to be served by an appropriate level of off street parking in order to meet the standards set out in the Councils Local Plan. These standards set out that 1 bed units require 1 parking space, 2/3 bed units require 2 parking spaces, and 4+ bed units require 3 parking spaces. From my reading of the plans, the scheme should be providing a total of 29 spaces, whilst 28 are being provided, which is a shortfall of 1. Whilst this is not necessarily a ground for refusing the scheme, it is considered that given the sites location, justification should be provided for this shortfall.

From a highway safety point of view, the Councils Highways Officer would assess any application from the point of view of highway danger, appropriateness of vehicular accesses, and vehicular flows.

Ecology

The Councils Ecology Officer has provided the following comments in response to the details submitted:

"Overall I have no significant concerns in respect of ecology, however full details of all surveys undertaken will need to be supplied with an application in order to assess the impacts on protected species and what mitigation will be required. It is not clear from the comments whether reptiles have been found yet, however it is acknowledged that compensatory habitat will be required. These surveys will be valid for a period of 1 year (less for badgers)."

Following the completion of these surveys the scheme will need to include all necessary mitigation measures. Overall the scheme must demonstrate that a measurable net gain in biodiversity will be achieved in accordance with national planning policy. The best way to demonstrate this is through the use of an accounting metric, the DEFRA 2.0 is at present the metric which shall be used. Where a net gain in biodiversity cannot be achieved within the scheme boundary, off-site enhancements will be expected. Although at present no percentage figure is set out in local planning policy, the emerging Environment Bill is expected to require a 10% net gain. I would recommend all schemes seek to achieve this going forward.

Loss of ecologically important habitats such as trees and woodland should be avoided and if absolutely necessary, compensatory tree planting will be required.

Given the sites location in a Conservation Target Area, enhancements shall be in line with the broad objectives of the CTA. The Bray to Eton Meadows and Pits CTA targets and opportunities include lowland meadows for example.

Overall, as long as all reports are provided, with detailed mitigation and enhancements measures, the scheme is unlikely to pose any significant ecological constraints."

Flooding/Drainage

Any application of this nature would need to incorporate an appropriate surface water drainage strategy, incorporating SuDS.

The site falls within Flood Zone 2 and 3, therefore as discussed, the Environment Agency would be consulted on any such application, and in accordance with the NPPF, the sequential test will need to be undertaken to demonstrate and justify that the proposed development cannot be located on an alternative site which has a lower probability of flooding.

Paragraph 155 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 157 of the NPPF states that all plans should apply a sequential, risk-based approach to the location of development - taking into account the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk by; (a) applying the

sequential test and then, if necessary, the exception test as set out by; (b) safeguarding land from development that is required, or likely to be required, for current or future flood management; (c) using opportunities provided by new development to reduce the causes and impacts of flooding and (d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long term, seeking opportunities to relocate development, including housing to more sustainable locations.

The aim of the sequential test as highlighted in paragraph 158 of the NPPF is to steer new development away from areas vulnerable to the risk of flooding. A strategic flood risk assessment usually provides the basis of applying the test.

Paragraph 159 of the NPPF states that if it is not possible for the development to be located in zones with a lower risk of flooding, the exception test may have to be applied. The need for the exception test will depend on the vulnerability of the development proposed, in line with the Flood Risk Vulnerability Classification set out in the national planning guidance.

The exception test as described within paragraph 160 of the NPPF, should be informed by the site specific flood risk assessment. For the exception test to be passed it should be demonstrated that (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk, and (b) The development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

In terms of the Council's expectations for undertaking the sequential test in this instance, it is considered that this needs to provide supporting information to indicate why the site in question should be used for the proposed development. In terms of defining a search area for alternative sites, it is acknowledged that a radius that includes the entire area covered by Buckinghamshire Council could be considered unreasonable (I am checking this specific matter with my colleagues in the Policy team and will revert back to you if this view differs). However, a sequential test should provide a comprehensive search area to identify other areas of land which could accommodate the development proposed, including sites which may be in a lower area of flood vulnerability. It is considered that the search should not be limited to the parish of Dorney only, but rather extend out to at least the other parishes that fall within the South Buckinghamshire Area, i.e. those that formed the former South Bucks District Council. The test should also highlight why such alternative sites have been discounted as potential sites for the development.

Other matters

Adequate provision for the storage and collection of refuse should be incorporated into the scheme. It may be advisable to contact the Council's Waste Team to discuss the size requirements for a development of this size.

In accordance with policy CP12 of the Core Strategy, a development of this size would require at least 10% of its energy to come from decentralised and renewable or low carbon sources. This should be set out and demonstrated within any application.

Any such application may need to provide a financial contribution for Education requirements. It is advisable to contact Stephen Chainani - schainani@bucksc.gov.uk on this matter.

As the site falls within a Conservation Area, the trees within the site are protected. As such, any application should demonstrate that it would not harm or adversely impact upon them. This would normally be established via an Arboricultural method statement/survey.

Application requirements

In terms of the requirements of any such application, it is considered that any such submission should be accompanied by the following:

- Relevant plans;
- Design and Access Statement;
- Planning Statement;
- Ecology Report;
- Heritage Statement, including matters of archaeology;
- Tree Report;
- Transport Statement;
- Waste Strategy Statement;
- Surface Water Drainage Strategy;

Floor Risk Assessment;
Sequention Test;
Affordable Housing Statement (including viability appraisal if appropriate);
Sustainable Energy Report
Marketing report (loss of employment use).

In terms of potential legal agreements, it is considered that one will be required to secure the works to the listed buildings, as well as potentially deal with matters of securing affordable housing and a contribution towards education provision.

In terms of conditions, the Council will always endeavour to minimise the number of conditions attached to any permission, especially pre-commencement conditions. The more information that it submitted with an application, the less there is the requirement to seek further information via condition. Matters that can addressed during the application rather than seeking details via condition would include the following:

Full schedule of materials for buildings and hardsurfacing;
Landscaping proposals;
Ecological mitigation/enhancement proposals;
Fully detailed tree protection details/method statement;
Relevant archaeological investigations - if appropriate;
Fully detailed surface water drainage and maintenance strategy.

Conclusions / next steps

It is considered that the site constitutes previously development land, therefore provided that the scheme does not have a greater impact upon the openness of the Green Belt than the existing use and development, then it is my view that the redevelopment of this site for residential purposes may well be acceptable;

The acceptability of any such scheme is dependent on it being demonstrated that the proposed new use would have no greater impact on the Green Belt than the existing lawful B8 storage use;

At present, I have concerns over the level of built form that is being proposed. It is considered that the proposed new buildings add to the spread of development within the site, as well as increase the overall floorspace, height and scale of built form over that which currently exists. All of these factors are considered to adversely impact upon the openness of the Green Belt. It is considered that this needs addressing prior to the submission of any such application;

The loss of the existing lawful B8 Storage use needs to be justified via the submission of evidence of a lack of demand and need for such a use on this site.

A sequential test needs to be completed and demonstrate that there are no alternative sites which have a lower risk of flooding, and which are capable of accommodating the proposed development.

I trust the above comments and information is of assistance to you. These are informal only, and do not constitute a formal determination under the Town and Country Planning Acts.

Yours sincerely,

Richard Regan
Principal Planning Officer