

PART A	
Report of: Head of Development Management	
Date of committee:	31st January 2018
Site address:	4-6, Lower Paddock Road
Reference Number:	17/01686/FUL
Description of Development:	Erection of 3 dwellings with access, parking, landscaping and associated works.
Applicant:	Hampden Homes Limited
Date Received:	8th December 2017
8 week date (minor):	2nd February 2018
Ward:	Oxhey

1.0 Site and surroundings

- 1.1 The site is located on the northern side of Lower Paddock Road to the east of the junction with Villiers Road. It comprises a pair of semi-detached houses with large rear gardens. The western boundary abuts the rear gardens of properties in Villiers Road, the northern boundary abuts the rear gardens of properties in Warneford Place and the eastern boundary adjoins the Keyser Hall.
- 1.2 The houses are not listed or locally listed but the site is located within the Oxhey Conservation Area.

2.0 Proposed development

- 2.1 This application follows the refusal of application ref. 17/00721/FUL in September 2017 (see Relevant History) and seeks to overcome the single reason for refusal.
- 2.2 As with the previous scheme, the existing pair of houses is to be substantially retained but with the removal of several small, single storey extensions and some changes to the fenestration on the side and rear elevations. All existing outbuildings within the garden areas are to be removed. This element of the scheme remains unchanged.
- 2.3 The existing crossover and access to 6, Lower Paddock Road is to be modified to form an improved access to the site serving an internal driveway. This remains

unchanged from the previous scheme. It will serve the proposed 3 new houses to be erected within the garden area and 10 parking spaces. The proposed new houses are 2 storey with accommodation in the roofspace and incorporate 3 double bedrooms. The design has been amended from the refused scheme, which proposed a very contemporary design with shallow, pitched roofs and large picture windows at first floor, to a more traditional approach incorporating full pitched roofs with gable ends to the front and rear. The design maintains a contemporary feel but is more reflective of the properties in the surrounding area. The proposed materials remain unchanged and include a buff multi brick, natural slate roof tiles, grey aluminium windows and timber entrance doors.

3.0 Relevant planning history

- 3.1 17/00721/FUL – Erection of 3 dwellings with access, parking, landscaping and associated works. Planning permission was refused on 6th September 2017 by the Committee for the following reason:

By reason of the height, bulk and design of the proposed new houses, the development will fail to conserve or enhance the character and appearance of the Oxhey Conservation Area and will have an unacceptably harmful effect on the surrounding area. As such, it is contrary to saved Policies U18 and U19 of the Watford District Plan 2000 and Policies SS1, UD1 and UD2 of the Watford Local Plan Core Strategy 2006-2031 and requirements in the National Planning Policy Framework for good design.

4.0 Planning policies

Development plan

- 4.1 In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the Development Plan for Watford comprises:

- (a) *Watford Local Plan Core Strategy 2006-31;*
- (b) *the continuing “saved” policies of the Watford District Plan 2000;*
- (c) *the Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026; and*
- (d) *the Hertfordshire Minerals Local Plan Review 2002-2016.*

4.2 Supplementary Planning Documents

The following Supplementary Planning Documents are relevant to the determination of this application:

4.3 National Planning Policy Framework

The National Planning Policy Framework sets out the Government's planning policies for England. The following provisions are relevant to the determination of this application, and must be taken into account as a material planning consideration:

Achieving sustainable development

The presumption in favour of sustainable development

Core planning principles

Section 1 Building a strong, competitive economy

Section 6 Delivering a wide choice of high quality homes

Section 7 Requiring good design

Section 11 Conserving and enhancing the natural environment

Section 12 Conserving and enhancing the historic environment

Decision taking

- 4.4 In January 2016 the Council received the South West Hertfordshire Strategic Housing Market Assessment and associated Economic Study 2016 (SHMA) which set out an Objectively Assessed Need (OAN) for housing in the Borough that exceeds the levels in the Core Strategy. The Court of Appeal has recently confirmed that a "realistic prospect" of a site coming forward within the required timeframe will be sufficient to meet the deliverability test set by national planning policy, thereby endorsing an earlier decision of Mr Justice Ouseley (St Modwen Developments Limited v Secretary of State for Communities and Local Government & Ors. Case Number: C1/2016/2001). Officers have undertaken a recent review of the housing supply having regard to these judgements and are of the view that the Council is able to demonstrate a 5 year supply based on the OAN. Accordingly, the Council's housing policies can be considered up to date.

5.0 Consultations

5.1 Neighbour consultations

Letters were sent to 380 properties, including all those who were notified of the previous application and all those who made representations on the previous application.

5.2 The following is a summary of the representations that have been received:

Number of original notifications:	380
Number of objections:	162
Number in support:	1

Of the 162 letters of objection, 53 are standard letters raising the following main objections:

Representations	Officer's response
Size, scale and mass has increased by 90m ² .	The internal floorspace of each house has increased by 30m ² due to the incorporation of the integral garage and rear recess into the ground floor of the new houses. However, the actual size scale and mass are smaller as set out in section 6.3 of the report.
Large, flat gables with oversized, mismatched, fenestration remains incongruous to the character of the local area.	Gable roof forms are common in the conservation area, particularly the flank elevations of corner properties.
Small reduction in ridge height and the small front step in the façade does not reduce the visual impact.	The ridge height has been reduced by 1.37m and the eaves height has been reduced by 2.53m. See Section 6.3 of the report.
Private amenity space has been reduced to 60m ² .	See Section 6.5 of the report.
Policy U19 continues to be neglected.	See Section 6.4 of the report.

The main objections from other letters received are summarised below:

Representations	Officer's response
Not sympathetic to the conservation area. Scale and bulk inappropriate. Loss of green space.	See paragraph 6.4 of this report.
Inappropriate back garden development contrary to NPPF.	See paragraph 6.2 of this report.
Large, 3 storey brick wall facing properties in Warneford Place.	The flank wall of the end unit (Unit 3) facing properties in Warneford Place has been

Visually very dominant and overbearing. Loss of light and outlook to properties.	significantly reduced in height. See paragraph 6.6 of this report.
Loss of wildlife and natural habitat. Bats regularly seen in the gardens.	The garden areas are of no specific ecological value. The 4 most significant trees are to be retained. A bat roost survey has been carried out (see paragraph 6.8 of this report).
Increase in traffic and congestion in Oxhey village.	The proposed 3 new houses will generate a negligible level of additional traffic.
Loss of parking for current residents.	The existing houses are provided will replacement parking spaces within the development.
Will add to parking congestion on the surrounding roads.	The proposal provides 7 parking spaces for the proposed 3 houses.
Difficulty of access for construction vehicles. Disruption to the neighbourhood.	These are not relevant planning considerations. Environmental impacts can be dealt with by Environmental Health under environmental protection legislation.
Visual impact on the streetscene.	See paragraph 6.4 of this report.
Architecture is out of place with the conservation area.	See paragraph 6.3 of this report.
Overdevelopment of the site.	The scheme proposes 3 houses and meets the relevant space requirements for new development.
Proposal will overshadow and overlook the garden areas retained for 4 and 6, Lower Paddock Road.	This garden areas remain as previously proposed. The proposed houses will not overshadow or overlook these gardens. The flank elevation of Unit 1 has been reduced in height and contains no windows. It is sited to the north of the garden areas.
Loss of light to properties in Lower Paddock Road.	See section 6.6 of the report.
Houses will have increased width and depth.	The width and depth of the houses remains unchanged. See table at paragraph 6.3.3.
Remains higher than Keyser Hall.	As Keyser Hall is single storey, all surrounding properties are higher than this building.

5.3 Statutory publicity

The application was publicised by 2 site notices posted on 15th December 2017 and by advertisement in the Watford Observer published also on 22nd December 2017.

The site notice period and newspaper advertisement period both expired on 12th January 2018.

5.4 **Technical consultations**

The following responses have been received from technical consultees:

5.5 Hertfordshire County Council (Highway Authority)

Has raised no objection to the proposal subject to suggested conditions relating to a construction management plan, construction of the new access junction, pedestrian visibility splays and construction and drainage of the parking area.

5.6 Hertfordshire County Council (Ecology)

The comments on the previous application remain relevant to the current application:

Agree with the findings of the Bat Roost Assessment report submitted with the application. Consider the Outline Mitigation Strategy forming part of this report to be acceptable and sufficient to allow the Local Planning Authority to satisfy its obligations under the Conservation of Habitats and Species Regulations 2010 and determine the application.

5.7 Planning Policy

Impact on conservation area

Whilst the use of back garden land for other uses is not common in this area, the original gardens to 4-6 (apparent on the 1871 map) have already been reduced in size to accommodate a bowls club and then the properties at Warneford Place. Policies are in place to protect adjoining properties from amenity issues arising from back garden development, but the policies in the NPPF and in the local plan do not prevent appropriate back garden development.

In terms of the conservation area; the area was on the edge of the town and was developed from farmland during the 19th century. The original pattern of development can still be read and where infill has occurred the change in building style allows that to be identified as infill rather than original development. The character of the area is now essentially urban with terraces interspersed with the occasional pair of semidetached or detached houses. The street scene is dominated by parked cars in many places.

The principle of using the back gardens here for new residential development is acceptable subject to an appropriate design and layout where the level of amenity for neighbours and the future occupiers of the scheme is acceptable.

The street elevation shown suggests that the new buildings are now subservient to the pair of houses on the frontage and will not dominate the street scene. The CGI submitted shows that in perspective the proposed buildings will sit comfortably behind these properties allowing them to retain their prominent position within the street scene. The CGI shows that the new access road will sit comfortably in the street scene. The use of a contemporary architectural style is acceptable in principle and the revised scheme sits much more comfortably alongside the existing building in the conservation area. The applicant has successfully combined a more traditional pitched roof form with a contemporary feel to the elevations. The use of brick in this location is appropriate.

As shown, the layout and massing of the new units will alter the conservation area, but will not cause harm to the significance of the conservation area. This scheme is much improved over the previous refused scheme. Details and material samples would need to be submitted under condition.

On balance; the principle of developing on the rear gardens here is acceptable within the terms of the NPPF and Local Plan policies. It is my view that whilst there will be change to the conservation area this does not cause harm to the significance of the conservation area. The current scheme is considered to preserve the character and appearance of the conservation which is acceptable under the wording “preserve or enhance” as set out in the legislation.

5.8 Arboricultural Officer

The proposals indicate the retention of four trees I have assessed of being worthy of protection. These are a group of three trees (1 Yew, 1 cypress and 1 Norway spruce) located to the rear of units 3 and 4 and a Magnolia located on the site frontage. In addition to these a blue cypress and hedge to the side of Keyser Hall are also retained. Providing these have adequate protection during construction they should be safely retained. None of the other trees on site met the benchmark score for retention.

Details of tree protection and construction of hard surfacing within root protection areas of the retained trees should be submitted and approved as should a detailed landscaping scheme.

6.0 **Appraisal**

6.1 **Main issues**

The main issues to be considered in the determination of this application are:

(a) Principle of backland development.

- (b) Scale and design of the dwellings.
- (c) Impact on the conservation area.
- (d) Quality of accommodation.
- (e) Impact on surrounding properties.
- (f) Access, servicing and parking.
- (g) Environmental considerations.

6.2 (a) Principle of backland development

The relevant saved policy of the Watford District Plan 2000 is H9 which states:

'Planning permission for back garden development will only be granted where:

(i) a proper means of access which is convenient and safe for pedestrians, non-motorised and motorised highway users is provided, which keeps to a minimum any visual impact within the street scene; and

(ii) the proposal complies with the criteria listed in Policy H8 (Residential Standards) and Policies U1, U2, U3 and U4.'

Policies H8, U1, U2, U3 and U4 have now been superseded by policies UD1 and UD2 of the Core Strategy which also do not preclude backland development.

6.2.1 In addition, the Residential Design Guide provides the following guidance:

'7.3.4 In existing areas, particularly in the case of infill or backland development, it is important that proposals respect - but not necessarily in all instances replicate – the height and scale of adjoining or nearby buildings. In most locations in Watford the prevalent building heights of two or three-storeys will need to be mirrored in new development. However, where appropriate, on town centre sites, in locations adjacent to transport nodes and within major development sites, denser and taller forms of development may be acceptable. In such instances, the effects of a proposal on amenity and townscape will be the primary issues in determining the appropriate height of development.'

6.2.2 The NPPF removes garden land (along with other categories of land) from the definition of previously developed land but this does not equate to a blanket ban on development of garden land. What it does mean is that garden land cannot be allocated for housing development or included within any allowance for windfall sites in calculating the Council's 5 year housing supply figures. This puts the emphasis on allocating true brownfield land that has been the subject of previous development. Many windfall sites will come forward and many will be garden land, as is the case with this application, and any proposals will need to be considered

carefully on their own merits. The development of garden land can often give rise to inappropriate forms of development that can have adverse impacts on surrounding properties and not be in keeping with the character and appearance of the area.

6.2.3 In a recent appeal decision at 177-187, Gammons Lane (ref. 16/00946/FUL), the Council's refusal of planning permission for the development of the rear garden areas for 5 houses was overturned. In allowing the appeal, the Inspector noted that the proposed dwellings would be of a similar scale, bulk and height to existing properties; would not be seen as incongruous or intrusive from surrounding properties or in limited glimpses from public vantage points; and would not have an overly cramped appearance. She concluded that the proposal would not be harmful to the character and appearance of the area.

6.2.4 The reason for refusal of the previous application was based upon the height, bulk and design of the proposed new houses having a harmful effect on the conservation area and not the principle of backland development. There remains no objection in principle to the development of the garden land of nos. 4-6, subject to the proposal being considered an appropriate form of development. Having regard to the various criteria of saved Policy H9 and policies UD1 and UD2 of the Core Strategy, the proposal is considered to be an appropriate and acceptable form of development, and the principle of backland development is therefore considered acceptable in this case, for several reasons:

- i) A satisfactory access has been achieved that provides appropriate vehicle/pedestrian inter-visibility and is of sufficient width to allow 2 cars to pass safely (see para. 6.7 below);
- ii) The access is a modification of an existing crossover and will not dominate the streetscene;
- iii) Adequate car parking has been achieved without dominating the site;
- iv) The proposed dwellings meet the required guidelines for new dwellings and will not give rise to a cramped form of development (see para. 6.5 below);
- v) The proposed dwellings will not have a harmful impact on the surrounding properties (see para. 6.6 below);
- vi) The proposed dwellings will adjoin the Keyser Hall which extends along the entire eastern boundary of the site;
- vii) The development will be seen in the context of Warneford Place and Rowley Close which are both examples of backland development (dating from the 2000s and 1960s respectively).

6.3 (b) Scale and design of the dwellings

The proposed new dwellings are set over 3 storeys with a traditional, pitched roof.

The overtly contemporary design of the previous scheme, incorporating large picture windows at first floor level and a very shallow roof pitch, was in stark contrast to the distinctive Victorian design and detailing of nos. 4 and 6. In determining the previous application, members expressed their concern that the design was not appropriate for the conservation area and this formed part of the reason for refusal. The design now proposed is more traditional in appearance but retains a contemporary feel, in that it does not seek, for example, to use Victorian style sash windows or incorporate traditional bay windows or brick detailing. The large picture windows at first floor level have been removed and smaller scale windows introduced together with contemporary patterned brickwork. As with the previous scheme, it is proposed to use materials that will reflect the existing houses and the wider conservation area, in particular, a yellow multi stock brick and natural slate roof tiles.

6.3.1 It is a widespread and accepted practice for new development within conservation areas to not seek to mimic traditional styles of development which often give rise to an unsatisfactory pastiche and blur the distinction between the original forms of development and their heritage value and later development. All new development within conservation areas is required to enhance or preserve the character and appearance of the area and this is often most successful with a contemporary design in contrast to the original forms of development. The applicant has accepted that members considered the previous contemporary design to be inappropriate and has therefore sought to adopt a style with a more traditional appearance.

6.3.2 The changes in the design include:

- i) Reducing the houses from 3 storeys at eaves level to 2 storeys with a traditional pitched roof.
- ii) Removing the large picture windows at first floor level and introducing 2 smaller windows separated by patterned brickwork.
- iii) Removing the expanse of blank brickwork and the corner balcony feature at second floor level and replacing these with gable ends containing a small window.

This approach still has a contemporary feel but has moved away from the overtly contemporary design of the previous scheme.

6.3.3 Members also expressed concerns regarding the scale of the previous scheme. It was noted that the eaves level and the ridge level of the proposed houses were both higher than those of nos. 4-6 and of the houses at Warneford Place. This was considered to give the proposed houses an overly dominant appearance that was not appropriate for a backland development of this nature. Whilst the width and

depth of the houses now proposed remains unchanged, their scale has been significantly reduced, with the eaves levels reduced by 2.53m and the ridge level reduced by 1.37m. The eaves and ridge levels of the proposed houses are now at a lower level than the houses at nos. 4-6 and at the same level as the houses at Warneford Place.

	Refused (17/00721/FUL)	Proposed (17/01686/FUL)	Difference
Width of houses	6.66m	6.66m	None
Depth of houses	11.50m	11.50m	None
Footprint of houses	76.6m ²	76.6m ²	None
Floorarea of houses	142m ²	172m ²	+30m ²
Eaves level	+56.60	+54.07	-2.53m
Ridge level	+58.46	+57.09	-1.37m
Area of flank wall of Unit 1 facing nos. 4-6	83.4m ²	54.3m ²	-29.1m ² (-35%)
Area of flank wall of Unit 3 facing Warneford Place	96.2m ²	66.7m ²	-29.5m ² (-31%)

6.3.4 As a result of the reduction in the eaves level, the area of the flank walls of Unit 1 facing nos. 4-6 and Unit 3 facing Warneford Place has been reduced by 35% and 31% respectively. This has significantly reduced the visual impact from these properties and the visual impact of the flank wall of Unit 1 when viewed from Lower Paddock Road.

6.3.5 Although the internal floorspace of the houses has increased from 142m² to 172m², this has not resulted in larger houses. The footprint of the houses remains unchanged. The previous scheme incorporated an integral garage (23.3m²) and an undercroft area to the rear (7.5m²) at ground floor level which have been incorporated into the ground floor in the new houses. The garage is now shown as a kitchen and utility room and the undercroft area has been incorporated into a ground level living/dining room (which was previously at first floor level).

6.3.6 The overall scale of the proposed houses is therefore significantly less than the

previously refused scheme. The design is also now of a more traditional style, albeit still retaining a contemporary feel, complementing the traditional Victorian houses in the conservation area. Furthermore, Units 2 and 3 have been stepped back 300mm each to provide further breaks in the massing of the front elevation when viewed from Lower Paddock Road. The proposed houses will sit comfortably behind the existing houses and will not appear visually dominant when viewed from Lower Paddock Road. For these reasons, it is considered that the basis for the reason for refusal of the previous scheme, relating to the height, bulk and design of the houses, has been overcome.

6.4 (b) Impact on the conservation area

The Oxhey Conservation Area Character Appraisal summarises the conservation area as follows:

The area is distinct from other later Victorian areas of the town for its varied architectural character with terraced housing interspersed with detached and semi-detached villas, as well as being pepper potted with a variety of public houses and shops. The strong small scale streetscapes and roofscapes are an important feature emphasised by the topography, as are the spaces created at the junctions of the roads where a variety of land uses prevail. The semirural character of the Conservation Area at its eastern edge is also a valuable feature in the transition from the built up part of the Borough to the rural hinterland.

6.4.1 This summary highlights the variety within the conservation area which is part of its character. It is not a uniform area in terms of its plot sizes, building typology or appearance, despite its relatively rapid growth during the mid-late half of the 19th century. The appraisal continues:

The majority of the Conservation Area is heavily built up and has a strong sense of enclosure created by the tight formation of terraced properties along the streets. The key historic spaces here are found at road junctions, where feature buildings punctuate the townscape and the most interesting street relationships are found. At the junctions of Villiers Road with both Upper Paddock Road and Lower Paddock Road the space opens out and the character is defined by the commercial buildings, of varying styles and scales, which enclose the space and generate activity.

The south-eastern corner of the Conservation Area is notably different in terms of spatial form, as the urban edge of the Borough meets the rural hinterland. The Paddock Road Recreation Ground marks the transition from urban to rural with what is quite a formal green space, with managed grassland and feature trees on its road boundary. This part of the Conservation Area has a much more open character, which is further accentuated by the lower density of the housing that borders the

open space.

6.4.2 The application site is located within the main part of the conservation area where there is a generally strong sense of enclosure from the high density of development. Although the plots of nos. 4-6 are relatively large and wide in comparison to many other plots within the conservation area, they are not distinctive in the character of the area other than forming part of the wide variety of plots found within the area. The houses themselves are typical of the development of the area and remain good examples of Victorian housing but, like all the dwellings within the conservation area, are of no special merit in their own right. Only 7 properties within the conservation area are locally listed and only one is a dwelling (Belvedere House). It has been stated by local residents and the applicant that Keyser Hall is locally listed but this is not the case. It is, however, identified as an 'unlisted building of significance that contributes positively to the character of the area', although this has no legal definition or status. There are no nationally listed buildings.

6.4.3 The proposed development needs to be considered within this context. The existing houses at nos. 4-6 are to be retained and will continue to make a positive contribution to the streetscene and the appearance of the conservation area. The proposed new dwellings will be visible from Lower Paddock Road, principally along the access road. Whilst concerns were previously expressed that the houses would be visible above the roof of Keyser Hall, which is only single storey, it is not considered that this will be the case with the current proposal. Keyser Hall is sited to the east of the site and Lower Paddock Road falls in level to the west. Furthermore, the site falls in level to the north and the proposed houses now have an eaves level and ridge level lower than that of nos.4-6. In street views towards the site from the east (see below), the top of the chimney on the rear outrigger is just visible behind the 2 chimneys on the main roof. The proposed houses are sited further to the right beyond the outriggers and their ridge level is at the same level as the top of this chimney. As such, the proposed houses would not be visible above the roof of Keyser Hall in views from Lower Paddock Road.





6.4.4 Notwithstanding this, the fact that new development is visible does not mean it is harmful. All new development is visible to a greater or lesser degree from the public realm. The visibility of the proposed houses still needs to be considered in the context of the site and the quality of the development. In the case of this development, it is only going to be visible along the access road.

6.4.5 In respect of saved Policy U18 which relates to design in conservation areas, it is considered that the revised scale and design of the proposed houses addresses the previous reason for refusal. The scale of the houses is significantly reduced, as is their bulk, and the design is now more traditional in appearance, moving away from the overtly contemporary design of the previous scheme. The materials to be used reflect the traditional materials found in the conservation area – buff multi stock bricks and natural slate roof tiles. The proposal is therefore considered to be of an appropriate scale, massing, design and appearance in relation to the context of the site and the conservation area, in accordance with this policy.

6.4.6 Saved Policy U19 relates to small scale development within conservation areas. It seeks to resist small scale development that could lead to a number of similar applications and which in turn could lead to a cumulative detrimental effect on the character and appearance of the conservation area. The supporting text does not exclude new development in conservation areas nor does it exclude modern design. It states that high standards of design are expected as well as the use of appropriate new materials sympathetic to existing surrounding buildings. It continues *“In general, traditional materials and craftsmanship will be needed to harmonise new development with the existing buildings and proposals involving new materials and innovative techniques will especially need to demonstrate a positive contribution to the enhancement of the area.”* It is therefore clear that the Council, in both preparing and adopting this policy, did not consider that modern development was unacceptable in conservation areas. Indeed, it clearly indicates such developments may be acceptable if they are of an appropriate quality. As discussed above, it is considered that the proposal is of a suitably high quality in its scale, design and appearance.

6.4.7 The view that ‘modern’ development is not inappropriate within Conservation Areas is also demonstrated by the recent appeal decision (APP/Y1945/W/16/3151749) on the Red Lion Public House within the Square Conservation Area where the Inspector found that, despite not reflecting the traditional features within the area, a contemporary design was appropriate because the simplicity of the design did not compete with this architecture. This is the same situation with the current proposal. The design is now more traditional in style but simple, avoiding a pastiche replication of detailing seen on the surrounding Victorian houses. The quality of materials is good and complements the materials seen in the conservation area. The proposed houses sit comfortably behind the existing houses at nos.4-6 and do not seek to ‘compete’ with them in the streetscene.

6.4.8 The proposed houses are considered to be of an appropriate scale, design and appearance and of a high quality for this location within the conservation area. They are not, therefore, considered to have any detrimental or harmful impact on the character and appearance of the conservation area. Your officers consider the proposal would have a positive effect on the conservation area but even if this view was not held by local residents and members, the proposal would at worst have a neutral impact. In order to justify an approval of planning permission for a new development in a conservation area, the Listed Buildings and Conservations Areas Act 1990 requires a development to either preserve (have a neutral impact) or enhance (have a positive impact) the character and appearance of a conservation area. Planning permission should only be refused were a development has a negative or harmful impact. It is not considered that the proposal would have such

a negative impact and could not therefore justifiably be refused on this ground.

6.4.9 It is interesting to note that within the conservation area, 3 areas are considered to have a neutral impact and none to have a harmful impact. Two of the areas considered to be neutral are more recent backland developments. One comprises Avenue Terrace and the adjoining Brickfield Mews off Lower Paddock Road and the other is Belvedere Court off Pinner Road. Although these are all of a traditional style albeit of varying quality and appearance, none were considered to be harmful when the conservation area was designated.

6.4.10 In terms of cumulative impacts that could be detrimental to the character and appearance of the conservation area, it is important that each proposal is carefully considered on its own merits and against the high design standards required by saved Policy U18. Each proposal is required to preserve or enhance the character and appearance of the conservation area. Where this is not achieved, an application should rightly be refused. But where each proposal is considered to preserve or enhance the character and appearance of the conservation area, cumulative developments of a similar nature could not have a cumulative detrimental impact.

6.4.11 In this case, your officers consider the proposal satisfies the legal test of preserving or enhancing the character and appearance of the conservation area. As such, it could not set a precedent for future development that would be harmful to the character and appearance of the conservation area. Any future proposal that was considered to be harmful should rightly be refused and the approval of the current application could in no way be used to justify an unacceptable scheme.

6.5 (d) Quality of accommodation

Each of the proposed houses comprises 3 double bedrooms over 3 storeys with an internal floorarea of 172m². This is in excess of the minimum floorarea required under the nationally described space standards of 108m² for this type of dwelling. Each new house will have an approximate east-west orientation and all windows will have good levels of outlook, natural light and privacy.

6.5.1 Each house will have a private garden area of 60-61m² which is below the minimum requirement of 65m² for a 3 bedroom dwelling as set out in the Residential Design Guide. However, a communal amenity area of 210m adjoins Unit 3 and will be available for the use of future residents. This will more than compensate for the minor shortfall in the private garden areas.

6.5.2 A communal bin store is provided for the new dwellings which is acceptable in its location and size. Secure cycle storage can take place within the private garden areas.

6.5.3 Both of the existing dwellings at 4 and 6, Lower Paddock Road will be retained as 3 bedroom dwellings with internal floorareas of 112m² and 119m² respectively. Both will also retain garden areas in excess of 65m².

6.6 (e) Impact on surrounding properties

6.6.1 *i) 2, Lower Paddock Road*

The southernmost new house (Unit 1) will give rise to some overlooking of the rear part of the garden area of this property, however, this is a common situation in urban areas and is not considered particularly harmful. No overlooking of the windows of the property will occur.

6.6.2 *ii) Properties in Villiers Road*

Some overlooking of the rear part of the garden areas of these properties will occur, however, this is a common situation in urban areas and is not considered particularly harmful. No overlooking of the windows of these properties will occur as they are sited 37m from the boundary of the site.

6.6.3 *iii) Properties in Warneford Place*

The properties in Warneford Place comprise 8 houses over 3 storeys (incorporating accommodation within a mansard roof). Their rear garden areas adjoin the rear boundary of the site. The flank elevation of Unit 3 is sited 20.8m from the rear elevation of 11, Warneford Place and 21.8m from the rear elevation of 15, Warneford Place (note, there is no no.13). These distances are unchanged from the previous scheme. The main change is that the eaves level of Unit 3 is now 2.53m lower than previously and the ridge level 1.37m lower. These levels are now the same as the houses in Warneford Place. This has also resulted in the area of the flank wall of Unit 3 facing Warneford Place reducing by 31% from 96.2m² to 66.7m².

6.6.4 The British Research Establishment's guidelines for daylight and sunlight propose a '25 degree rule' for assessing light to existing windows. Where a line taken from the mid-point of a window subtends an angle of 25°, the guidance advises that levels of daylight and sunlight may be adversely affected. In this case, the angle between the mid-point of the ground floor windows and the eaves level of Unit 3 is 15°. As such, the proposal will have no adverse impact on daylight and sunlight to the windows in the rear elevation of nos. 11 and 15. This low angle, a function of the distance between the houses, also indicates that although the flank wall of Unit 3 will still be clearly visible, it will not have an overbearing or dominant impact on these windows. Any visual impact is further reduced compared to the previous scheme by the reduction in the height of the eaves level and the area of the flank wall.

6.6.5 In respect of the garden areas, the angle taken from the rear garden boundary to

the ridge level of Unit 3 is 25°, indicating that there will also be no loss of sunlight to the garden areas.

6.6.6 *iv) Keyser Hall*

This is a single storey building occupied by the Oxhey Conservative Club and contains no residential accommodation. The proposal will have no impact on this property.

6.7 (f) Access, servicing and parking

The existing crossover to no.6 is to be modified to form an improved access to serve the proposed dwellings. This includes the provision of 2m by 2m visibility splays to ensure adequate visibility between vehicles and pedestrians and an access road 4.8m wide, to allow 2 cars to pass safely. This remains unchanged from the previous scheme and is supported by Herts. County Council as the highway authority. Although no turning facilities are provided for servicing vehicles, smaller transit size vehicles will be able to reverse into the site. Larger vehicles will need to service the houses from Lower Paddock Road, which is the situation that exists for all existing properties on the road. This is acceptable.

6.7.1 The proposal incorporates 11 parking spaces for the existing and proposed dwellings. This accords with the maximum number of spaces for the proposed development based upon the Council's adopted standards. The parking spaces will not dominate the site and they will not appear as visually intrusive within the streetscene. Lower Paddock Road already experiences heavy parking congestion and this level of provision will minimise any likelihood of overspill parking taking place on the road.

6.8 (g) Environmental considerations

6.8.1 *i) Trees and hedging*

There are only 4 significant trees within the site considered worthy of retention. These are:

- a magnolia sited within the front garden area of no.6;
- a yew, cypress and Norway spruce located on the western boundary.

6.8.2 All of these trees are to be retained. Also to be retained is a blue cypress located on the northern boundary and a 30m section of the existing laurel hedge along the eastern and northern boundaries. These are the most significant landscape elements and their retention is welcomed.

6.8.3 *ii) Bats*

Following reports from local residents that bats are regularly seen flying around the

site, a Bat Roost Assessment was undertaken. This concluded that 1 outbuilding to be demolished and 2 trees to be removed (a mature apple tree and a mature pear tree) had low potential for roosting bats and recommended a bat emergence survey to be undertaken. One tree, the cypress, was considered to have moderate potential but this is to be retained.

6.8.4 The assessment was accompanied by an Outline Mitigation Strategy which is considered acceptable by Hertfordshire Ecology and can be conditioned.

7.0 Community Infrastructure Levy and Planning Obligations

7.1 Community Infrastructure Levy (CIL)

The Council introduced the Community Infrastructure Levy (CIL) with effect from 1 April 2015. The CIL charge covers a wide range of infrastructure as set out in the Council's Regulation 123 list, including highways and transport improvements, education provision, youth facilities, childcare facilities, children's play space, adult care services, open space and sports facilities. CIL is chargeable on the relevant net additional floorspace created by the development. The charge is non-negotiable and is calculated at the time that planning permission is granted.

The CIL charge applicable to the proposed development is £120m².

7.2 S.106 planning obligation

The Council introduced the Community Infrastructure Levy (CIL) with effect from 1 April 2015. On and from this date, s.106 planning obligations can only be used to secure affordable housing provision and other site specific requirements, such as the removal of entitlement to parking permits in Controlled Parking Zones and the provision of fire hydrants. There is no requirement for a planning obligation in this case.

8.0 Conclusion

8.1 The main element of the proposal is for the erection of 3 new houses within the garden areas of 4-6, Lower Paddock Road. National and local policies do not preclude backland or garden development but schemes of this nature do need careful consideration. There is, therefore, no objection in principle to the development of the garden land of nos. 4-6, subject to the proposal being considered an appropriate form of development. Having regard to the various criteria of saved Policy H9 and policies UD1 and UD2 of the Core Strategy, the proposal is considered to be an appropriate and acceptable form of development.

8.2 The character and appearance of the Oxhey Conservation Area is one of varied,

generally high density housing with a strong streetscape and sense of enclosure. The existing houses at nos. 4-6 are to be retained and will continue to make a positive contribution to the streetscene and the appearance of the conservation area. The proposed new dwellings will have limited visibility from Lower Paddock Road, principally from the east over the roof of the single storey Keyser Hall. Following the refusal of the previous application, due to the height, bulk and design of the proposed houses, the scale of the houses has been significantly reduced and the design has also been significantly revised, to give a more traditional appearance to the houses. With these changes, it is considered that the previous reason for refusal has been overcome and that the proposal will have no harmful impact on the character and appearance of the conservation area.

- 8.3 The proposed houses will provide a good quality of accommodation for future occupiers and will have adequate car parking to avoid any overspill onto Lower Paddock Road. The proposal will also have no significant adverse impacts on the existing houses in Warneford Place or other surrounding properties.
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9.0 Human Rights implications

- 9.1 The Local Planning Authority is justified in interfering with the applicant's human rights in order to alleviate any adverse effect on adjoining properties and their occupiers and on general public amenity. With regard to any infringement of third party human rights, these are not considered to be of such a nature and degree as to override the human rights of the applicant and therefore warrant refusal of planning permission.
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10.0 Recommendation

That planning permission be granted subject to the following conditions:

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

1639-A PL-02-003E, 004E, 005E, 006E

1639-A-PL-04-003E, 004E

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

3. Prior to commencement of the development, 1 dusk emergence/dawn re-retry survey of building B1 and trees T1 and T2 (as identified in the 2017 Bat Roost Assessment) should be undertaken between May - August (inclusive), to determine whether bats are roosting and will be affected by the proposals. If bats are found to be roosting, no development shall commence until an amended outline mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with these approved details and within the constraints of any relevant European Protected Species licence.

Reason: This is a pre-commencement condition in order to ensure the development will have no adverse impact on any bats roosting on the site, in accordance with European and National legislation.

4. No removal of trees, scrub or hedges shall be carried out on the site between 1st March and 31st August in any year unless a suitably qualified ecologist has previously searched the trees, scrub or hedges and certified in writing to the Local Planning Authority that such works of removal may proceed.

Reason: In order to avoid harm to nesting birds which are protected.

5. No development shall commence until details of the external materials to be used for the development (both the retained dwellings at nos. 4 and 6, Lower Paddock Road and the new dwellings) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved materials.

Reason: In the interests of the visual appearance of the building, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31. This is a pre-commencement condition as the materials need to be agreed with the Local Planning Authority before construction commences.

6. No development shall commence until details of the tree protection measures to be installed to protect the retained trees numbered 1, 6, 7, 8 and 9 on drawing no. SPH/SN/5837-01/10.05 (Tree Surveys) as shown on

approved drawing no. 1639-A-PL-02-003E, have been submitted to and approved in writing by the Local Planning Authority. No materials, vehicles, fuel or any other items shall be stored or buildings erected or works carried out inside this fencing and no changes in ground level shall be made within the spread of any tree without the prior written approval of the Local Planning Authority. These measures shall be retained as approved at all times during the development works.

Reason: To safeguard the health and vitality of the existing trees and hedge which represent an important visual amenity during the period of construction works in accordance with Policies SE37 and SE39 of the Watford District Plan 2000. This is a pre-commencement condition as the tree protection measures need to be agreed with the Local Planning Authority and installed before construction commences.

7. No dwelling (including the retained dwellings at nos. 4 and 6, Lower Paddock Road) shall be occupied until the following works have been carried out in full:
 - i) The construction of the modified access junction to Lower Paddock Road and the internal access road as shown on drawing no. 1639-A-PL-02-003E;
 - ii) The construction of the 10 car parking spaces (numbered 02-11) as shown on drawing no. 1639-A-PL-02-003E;
 - iii) The construction of the communal bin store as shown on drawing no. 1639-A-PL-02-003E;

Reason: To ensure adequate facilities are provided for the future occupiers of the development.

8. No dwelling (including the retained dwellings at nos. 4 and 6, Lower Paddock Road) shall be occupied until a detailed hard landscaping scheme for the site, including details of all site boundary treatments and external lighting, has been submitted to and approved in writing by the Local Planning Authority, and the works have been carried out in accordance with the approved details. The detailed scheme shall be based upon approved drawing no. 1639-A-PL-02-003E.

Reason: In the interests of the visual appearance of the site and the wider conservation area, in accordance with Policies UD1 and UD2 of the Watford Local Plan Core Strategy 2006-31.

9. No dwelling (including the retained dwellings at nos. 4 and 6, Lower Paddock Road) shall be occupied until a detailed soft landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed scheme shall be based upon approved drawing no. 1639-A-PL-02-003E. The approved soft landscaping scheme shall be carried out not later than the first available planting and seeding season after completion of development. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with details approved by the Local Planning Authority.

Reason: In the interests of the visual appearance of the site and the wider conservation area, in accordance with Policies UD1 and UD2 of the Watford Local Plan Core Strategy 2006-31.

10. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (or any modifications or re-enactment thereof), no development permitted under Schedule 2, Part 1, Classes A, B, C, D, E and G of the Order shall be carried out to the dwellings hereby approved without the prior written permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to ensure that any such developments are carried out in a manner which will not be harmful to the character and appearance of the site and its surroundings and will not prove detrimental to the amenities of residents in accordance with Policies SS1 and UD1 of the Watford Local Plan Core Strategy 2006-31.

Drawing numbers

1639-A-PP-00-001

1639-A PL-02-003E, 004E, 005E, 006E

1639-A-PL-04-003E, 004E

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