

4/03275/17/FUL	CHANGE OF USE FROM NURSERY TO RESIDENTIAL. REDEVELOPMENT OF SITE TO PROVIDE THREE NEW DWELLINGS.
Site Address	WOODVIEW NURSERIES, TINKERS LANE, WIGGINTON, TRING, HP23 6JB
Applicant	MR BATCHELOR, Beechwood
Case Officer	Briony Curtain
Referral to Committee	Called in by Ward Councillor (Stan Mills)

1. Recommendation

1.1 That planning permission be **GRANTED**

2. Summary

2.1 The application site is located within the Metropolitan Green belt. Having regard for recent case law, the proposal constitutes appropriate development in the Green Belt, as the development meets the exception set out in para 145 of the NPPF (the re-development of Previously developed land). The proposed dwellings would not have a greater impact on the openness of this part of the Green belt than the existing development on the site. Notwithstanding this, in any event, the very special circumstances outweigh the harm to the openness of the Green Belt and are considered acceptable. There would be a benefit to the site by removing the existing buildings and structures, and any visual harm would be mitigated by additional planting. The development is considered acceptable for approval subject to conditions.

3. Site Description

3.1 The application site comprises a horticultural/nursery enterprise in Wigginton, located off Tinkers Lane, a narrow private road which comprises a ribbon of detached dwellings. The

4. Proposal

4.1 Full Planning Permission is sought for the re-development of part of the existing nursery site with three detached dwellings. All existing structures including the greenhouses, poly tunnels, service buildings, sheds, metal containers and all goods externally stored would be permanently removed from the site. A dense landscaped buffer would be provided to the north, south and east.

The scheme has been amended during the course of the application in the following ways;

- Omission of one dwelling house (four dwellings were originally proposed)
- Repositioning of the remaining houses close to the NW part of the main site to make the site generally more open.
- Relocating the proposed single storey dwelling so that it is the closest dwelling to the road and thus reducing the impact of the built form from Tinkers Lane.
- Reduction in mass and bulk of the house in new Plot 2 again reducing the impact of the built form from Tinkers Lane.

- Relocation of two storey house between Woodview house and Beechwood bungalow. The dormer window to the side elevation facing Woodview has been removed to avoid overlooking.

5. Relevant Planning History

4/01279/04/FU REPLACEMENT SERVICE BUILDING
Granted
20/07/2004

4/02058/00/FU CONSTRUCTION OF AGRICULTURAL DWELLING
Granted
02/04/2001

4/00242/90/4 MOBILE HOME
Refused
26/04/1990

6. Policies

6.1 National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance (NPPG)

6.2 Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS2 - Selection of Development Sites
CS3 - Managing Selected Development Sites
CS5 - The Green Belt
CS8 - Sustainable Transport
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS17 - New Housing
CS19 - Affordable Housing
CS24 - Chilterns Area of Outstanding Natural Beauty
CS27 - Quality of the Historic Environment.
CS29 - Sustainable Design and Construction
CS32 - Air, Water and Soil Quality

6.3 Saved Policies of the Dacorum Borough Local Plan

Policies 13, 18, 21, 51, 57, 58 and 97
Appendix 3, 5 and 7

6.4 Supplementary Planning Guidance / Documents [include only those relevant to case]

- Environmental Guidelines (May 2004)
- Chilterns Buildings Design Guide (Feb 2013)
- Planning Obligations (April 2011)
- Affordable Housing (Jan 2013)
- Landscape Character Assessment (May 2004)

7. Constraints

- CIL1
- 10.7M AIR DIR LIMIT
- HALTON DOTTED BLACK
- CHILTERN AONB
- AREA OF ARCHAEOLOGICAL IMPORTANCE
- AREA OF SPECIAL CONTROL FOR ADVERTS
- Former Land Use
- GREEN BELT

8. Representations

Consultation responses

8.1 These are reproduced in full at Appendix A

Neighbour notification/site notice responses

8.2 These are reproduced in full at Appendix B

9. Considerations

Main issues

9.1 The main issues to consider are:

- Policy and principle
- Impact on openness of Green Belt
- Appearance and Scale
- Impact on AONB
- Impact on residential amenities of surrounding properties
- Impact on Highway Safety and Parking Provision
- Other

Policy and Principle

9.2 The application site lies within the Green Belt. Section 13 of the National Planning Policy Framework (NPPF) deals with the Green Belt wherein Para 133 states that the Government attaches great importance to Green Belts where the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence.

9.3 Para 143 (NPPF) states that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'.

9.4 Para 144 (NPPF) goes on to state that substantial weight should be given to any harm to the Green Belt land and that 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

9.5 Para 145 (NPPF) notes that LPAs should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include; (g) 'limited in-filling or the partial or complete redevelopment of previously developed sites, 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.

9.6 At the local planning level, the adopted Dacorum Core Strategy Policy CS5 deals with the Green Belt, and echoes the requirements of the NPPF by confirming that the Green Belt will be protected from inappropriate development in accordance with national policy and should remain essentially open in character. Core Strategy Policy CS5 states that within the Green Belt, small-scale development will be permitted, which includes (d) the redevelopment of previously developed sites, provided that:

- It has no significant impact on the character and appearance of the countryside:
and
- It supports the rural economy and maintenance of the wider countryside

9.7 The above national and local planning policy stance is therefore interpreted as follows:

- the redevelopment of PDL is acceptable in principle providing it has no significant impact on the character and appearance of the countryside.
- if the redevelopment does have a significant impact on the countryside then it is judged to be 'inappropriate development'
- 'Inappropriate development' is only allowed if it can be demonstrated 'very special circumstances' which are sufficient to outweigh that harm.

Previously developed Land

9.8 Annex 2: The Glossary of the NPPF defines Previously developed land as follows;

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; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed where the remains of the permanent structure or fixed infrastructure have blended into the landscape.

9.9 The application site comprises a well established horticultural nursery enterprise and there is no dispute that the greenhouses, poly tunnels and surrounding land were (and some are still) originally used for agricultural purposes. However, whilst originally and for many years the site operated as a traditional horticultural business; growing home produced plants for sale, over time, the use of the land, and its trading arrangements have altered significantly. The site still sells some home produced plants but the majority of the plants now sold are bought in (container plants) not home produced and the range of products sold from the site has increased to include landscaping products (sand, gravel) and garden products (ornaments, stone chippings, compost etc). Whilst still in agricultural use there are clearly retail elements to the site. The retail unit, has increased in size and expanded in terms of the range of products sold (and stored on the site). Through the passage of time the retail elements operating from the site would be immune from enforcement action.

9.10 Given the application site, the associated buildings, structures and fixed surface infrastructure are not used solely for agricultural purposes but also comprise retail elements it is concluded that the land does constitute Previously developed.

There is case law to support this approach.

9.11 In the case of Lee Valley Regional Park v Broxbourne Borough Council, a site which was also formerly a horticultural nursery but over time sold florists sundries from the buildings, Mr Justice Ouseley ruled that the southern part (the nursery) of the site in question was correctly treated as Previously Developed Land. He ruled that '*the glasshouses had been agricultural buildings but their agricultural use did not just cease, it had been replaced by a non-agricultural use or by a mixed agricultural and non-agricultural use. Although plants were still grown there, a retail component was introduced when the plants and other florist's sundries were sold from the glasshouses. This use was permitted on appeal in 1999. So, the buildings were not last lawfully used for agricultural purposes, but for a mixed use including agricultural and non-agricultural components*'. He goes on to state; '*The buildings had been designed for the purposes of agriculture. They had been designed as horticulture, so they had in the past last been used for the purposes of agriculture. The mere cessation of an agricultural use would not cause them to cease being agricultural buildings. An unlawful change of use which would still be enforced against, would not change the use of the building in this context. The words "agricultural building" in the NPPF, as in the legislation, in my view mean a building used for the purposes of agriculture alone and do not include one which was used for agriculture purposes but which, lawfully, is now used for another purpose, mixed with agriculture or not. These buildings were no longer used for agricultural purposes alone*'. He found the site was correctly treated as PDL by the Local Planning Authority.

9.12 A similar case can be argued at the Woodview Nurseries site.

The land and buildings are still used, in part, to grow plants but a retail component has undoubtedly been introduced and the scale of this retail component has increased over time. Whilst this mixed use does not benefit from a formal planning permission, through the passage of time it is considered the retail components of the site would be immune from enforcement action. An examination of aerial photographs of the site, historic planning applications, and their supporting documentation clearly suggest that the retail components now on the site have existed for in excess of 10 years and form a significant part of the overall use of the site and the business. The statements

submitted to support the 2000 planning application (which sought consent for an agricultural workers dwelling) set out details of the nursery site, its trading arrangements and a letter from the County Land Agent notes that *'it is a long established family concern based on a traditional horticultural nursery and now sells a wide range of home produced and bought in nursery and garden products to both retail and trade customers'*. The use of the site at that time is specified as a 'Horticultural Production Nursery and Retail Enterprise' it is also noted in the reports that the business operates a 'landscaping enterprise' which undertakes hard and soft landscaping projects with 'rockery stone, york stone, crazy paving and walling block' all stored at the site and advertised for sale. The conclusion of the report refers to the nursery and a *'retail unit'*.

9.13 Taking the above into account, it is considered that the site can be considered as previously developed land.

9.14 As such, it would meet the identified exception within paragraph 145 and would represent development that is **not** inappropriate within the Green Belt provided the re-developed proposed does not have a greater impact on the openness than the existing development. This is covered in more details in the sections below. However a comparison of the existing and proposed buildings footprints, heights, mass, bulk and volumes together with the position of the proposed dwellings results in the development having no greater impact than the existing development currently occupying the site. The substantial decrease in footprint and site coverage in this case being 'traded-off' for the height increase of the dwellings proposed. The dwellings are clustered adjacent to and set against the backdrop of existing dwellings of a similar mass and bulk which reduce their impact on the openness. The clearing of other areas of the site would increase the openness. Taking the site as a whole there would be no greater impact on openness and as such the development is appropriate development.

'Very Special Circumstances'

9.15 Notwithstanding the above, in any event, there are considered very special circumstances to allow the proposed development in the Green Belt.

9.16 As stated, the NPPF makes it clear that 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Para 144 (NPPF) goes on to state that substantial weight should be given to any harm to the Green Belt land and that 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

9.17 Whilst in this case the development is not considered to be inappropriate as it meets the exception test of para 145, the following factors are considered to amount to very special circumstances, and would weigh in favour of the proposal.

- the proposed units result in a significant reduction in 'sprawl' across the site
- the proposal would significantly improve the visual appearance of the area and remove the unsightly storage containers and bulky materials currently stored externally
- the proposal would significantly reduce the intensity of traffic movements to and from

the site and negate the need for large lorries accessing this narrow private, otherwise residential road. This would improve highway safety and improve the residential amenity of adjacent properties.

- the proposal incorporates wide 'green buffers' to the south, north and east of the proposed dwellings that would enhance the rural setting and Wooded character of this part of the AONB.
- the proposal would allow the LPA to control future development in the interests of openness and residential amenity.

Impact on openness of the Green Belt

9.18 The application site is located to the north of Tinkers Lane, in close proximity to the cross roads of Tinkers Lane, Shootersway, Rossway Lane and Hamberlins Lane. The application site is bounded to the east and north by dense Woodland. The land to the north-east remains open. To the south are residential properties which branch off of Tinkers Lane to be two of three properties deep in places. The northern side of Tinkers Lane, comprises single 'layer' dwelling houses in a ribbon but the road bends round at almost 90 degrees to the west. The prevailing street pattern is thus one of a 'wide ribbon' with Tinkers Lane being the central spine.

9.19 Given their height and position, the dwellings will adversely affect the openness of part of the site (and thus the Green belt), but similarly, the loss of the greenhouses and poly tunnels from other parts of the site and their replacement with planting only (which would be conditioned and controlled by the LPA) would improve openness on other parts. In this case in order to assess the overall impact on openness as a whole site, numerous factors should be considered including, footprint, height, site coverage and volume.

9.20 Given the existing structures are low level, single storey structures and the proposed dwelling are one and a half / single storey, rather than compare the footprint of the buildings it is considered far more relevant when assessing openness to consider volume. A numerical comparison of existing and proposed development is a good starting point to which specific factors such as siting and design can then be considered. The proposed dwellings have a considerably lower total volume than the existing buildings and structures occupying the site. This would weigh heavily in favour of the proposal. A comparison of the overall volume of the proposed development compared to the existing is as follows;

EXISTING

Existing Glass Houses and Polytunnels (A-I on plans)	- 6,237.4sqm
Other Structures (J-Z)	- 819.3sqm
	7056.7sqm

PROPOSED

Dwellings	2,297.4
garages	364
Total	2,664.1sqm

9.21 In addition to the above, the proposed development represents a significant decrease in terms of site coverage and sprawl. Whilst low level and single storey, and set back some distance from the main Lane, the existing development covers approximately half of the total site. Together with the metal containers and outbuildings

that occupy the land between Woodview and Beechwood, the existing development spans the entire width of the site for over 120m. In contrast the proposed dwellings span just under 60m and are concentrated to the central section, ie closest to the existing dwellings (WoodView and Beechwood). The concentration of the development to one area of the site increases the overall openness of the site as a whole and thus the wider area.

9.22 With regard to their visual impact, the dwellings proposed have been carefully sited to ensure they remain within the existing built up 'cluster' of residential properties and do not encroach further to the north onto un-developed land. The application site already comprises one detached, two storey residential property, which is sited to the north-western corner of the site. The proposed dwellings have been sited partly on the footprint of the existing greenhouses; slightly to the south of the existing property so as to not encroach into the more open land further north. Despite their increased height when compared to the existing structures, the proposed dwellings would still be seen against the backdrop of mature woodland and would not therefore harm skyline views.

9.23 Taking all of the above into account, the proposed dwellings are not considered to have a greater impact on the openness of this part of the Green Belt, and in fact, compared to the vast array of buildings, containers and other structures currently occupying the site it is considered there will be an overall improvement in openness. The proposals are considered to comply with the requirements of the NPPF and Policy CS5 of the Core Strategy 2013.

Appearance, Layout and Scale

9.23 The external appearance of each of the dwellings has been designed to be varying in order to reflect the eclectic nature of the properties in the existing street scene. No two properties in the area are alike yet they are predominantly traditional in their appearance. The size, heights, and overall massing of the dwellings in the vicinity varies significantly. When compared to the existing properties, the mass and bulk of the proposed dwellings would not be out of keeping and they would not adversely affect the overall character or appearance of this part of Tinkers Lane. The height of the dwellings at single or one and a half storeys relates well to adjacent properties and has been reduced from the two storeys originally proposed to reduce the overall ridge height, mass and bulk to be more in line with the single storey buildings currently occupying the site. Given they are set back some distance within the site and a wide landscape buffer is proposed to the south and east, the dwellings would not appear unduly prominent or overbearing when viewed from Tinkers lane street scene.

9.24 Turning to layout, several options for the positioning of the buildings were explored, including aligning the properties parallel to Tinkers lane to complete the 'ribbon'. However, these would be prominent when viewed from Tinkers lane and the main crossroads (the public domain) which would be in contrast to the open nature of the current frontage which is currently used to house container plants only. There is a large detached property; Beechwood already sited to the north-western corner of the site and as such the new dwellings will be set back and clustered around this. In part, from the public domain, they would be concealed from view or be viewed against the backdrop of the existing property. The southern side of Tinkers lane already sees properties set back behind others and accessed via long drives so the proposed approach would not be at odds with the existing street pattern or appear out of

keeping. Plot 3 is an in-fill development sited between two similarly sized residential properties (Woodview and Beechwood).

The layout, overall appearance and scale of the proposed dwellings are considered acceptable and complies with Policies CS11 and CS12 of the Core Strategy 2013.

Impact on AONB

9.25 The site is located within the Chilterns Area of Outstanding Natural beauty wherein national and local planning policy seeks to conserve the special qualities of the landscape. Section 15 of the NPPF deals with conserving the natural environment and para 172 states that great weight should be given to conserving and enhancing Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The scale and extent of development within these designated areas should be limited. In accordance with Policy CS24 of the Core Strategy 2013 development should support the principles set out within the Chilterns Buildings Design Guide. The AONB Management Plan 2014-2019 also sets out a vision for conserving the area and a framework for achieving this vision.

9.26 The nursery site, whilst a traditional feature of many rural landscapes, is now generally unsightly and unattractive in its appearance. Activities across the site have diversified and it is now scattered with metal storage containers, pallets of materials stacked for sale, areas of sand and rock piles and other garden paraphernalia stored externally for sale. Through the passage of time these structures and containers are immune from enforcement action and can thus remain on the land. In addition to the unsightly containers, the poly tunnels and green houses are, in places, in a poor state of repair and thus appear dilapidated and generally untidy. The site as a whole is no longer attractive and as such its clearance is considered to benefit the overall setting and wider landscape. The benefits of clearing the site would be highly localised as the mature woodlands that surround the site, restrict long distance views of the application site. Public views are contained to those possible from Tinkers Lane. The application site is not visible in longer distance views.

9.27 With regard to the scale of development and its layout, the number of units has been reduced and the scheme has been amended during the course of the application. The amended dwellings have been sited close to the existing dwelling of Beechwood, clustered together and would be 'buffered' to the north, east and south by open undeveloped areas, (which subject to approval of the details) would be entirely planted and remain open (i.e. free from built development). The south and east of the site are the most prominent when viewed from the entrance to Tinkers Lane and the 'green buffer' being introduced would enhance the rural, wooded feel of this part of the AONB. As the Chilterns Conservation Board Officer notes the site is located between *areas 114 and 110 which share a common objective to 'promote the appropriate management of woodland in order to conserve and where absent to re-establish a rich ground flora etc. The overall impression is one of tranquillity and enclosure'*. The layout of the proposal is considered to meet these objectives. The existing unsightly, sprawling structures across the site would be cleared and substantial planting introduced, especially to the most prominent areas of the site which given their position at the start of, help form and reinforce the rural setting of Tinkers lane and this part of the AONB.

9.28 Turning to the buildings themselves, and their appearance (which has already

been considered above with regard to their impact on the street scene), and their impact on character and appearance of the AONB it is considered that given they would not significantly alter the appearance of this corner of Tinkers Lane, the overall character and appearance of this part of the AONB would be conserved. The mass, bulk, overall form and detailing of the proposed dwellings relate to those of the existing properties in this part of Tinkers Lane. The Chilterns Buildings Design Guide (CBDG) provides guidance on ways in which the outstanding and distinctive qualities of the AONB can be conserved or enhanced when building takes place. The design of the proposed dwellings adheres to a number of the principles, albeit mainly those referring to the detailing of the buildings (i.e. materials, inclusion of chimneys etc.).

9.29 Overall it is considered that given the state of the existing site, the appearance of this part of the AONB would be improved by the removal of the existing buildings (and all associated works and storage) from the site and its re-development with the low density housing proposed. The scale and extent of the dwellings proposed are considered to be limited in accordance with the requirements of the NPPF and their position and layout within the well-established residential cluster would not harm the special qualities of the wider area. The substantial 'green buffers' proposed would help soften the development and enhance the rural feel of this corner of Tinkers lane.

The proposal is considered to comply with the NPPF and Policies CS24 of the Core Strategy 2013 in this regard.

Impact on Highway Safety

9.30 The proposed re-development would not have an adverse impact on the safety or operation of the adjacent highway network. Tinkers Lane is a private road and as such does not fall within the jurisdiction of Herts County Council as Highway Authority.

9.31 A planning statement has been submitted in support of the application and sets out those traffic movements would be likely to significantly decrease as a result of the proposal. Given the existing use of the site, visitors frequently visit the site to purchase plants and other products, as do large Lorries to either deliver or collect produce. During several site visits numerous vehicles of varying sizes from cars to large vans frequented the site. This is common occurrence during the hours of operation. There are no formal parking arrangements with vehicles parking in an ad-hoc manner along the entrance track and in an area of hard standing between Beechwood and Woodview.

9.32 It is not proposed to alter the access point of the site from Tinkers Lane, each dwelling is served by adequate on-site parking and there is more than sufficient space to safely manoeuvre within the site to enter and leave in a forward gear. The proposal would not give rise to any parking or highway concerns and complies with Policy CS8 and CS12 of the Core Strategy and saved policies 57, 58 and appendix 5 of the Local Plan.

Impact on Trees and Landscaping

9.33 The Woodlands Officer comments that *'there are no trees on this site that are a constraint to development. The difference to the landscape between this traditional nursery and a number of new houses is best determine by policy than opinion. In the event of recommending a grant for this proposal, please condition a detailed*

landscaping scheme'.

9.34 The development would not adversely affect any trees or significant landscaping and as such would comply with Saved Policy 99 of the Local Plan. Given the setting of the site, and the inclusion of the proposed 'green buffers', it is considered necessary and reasonable to require full details of hard and soft landscaping by condition.

9.35 With regard to the Woodlands Officers comments on the impact on the landscape, these have been covered elsewhere in the report but is concluded on balance the loss of the unsightly structures and the limited housing proposed would improve the overall appearance of the wider landscape.

Impact on Archaeology

9.36 The development site is partially in Area of Archaeological Significance no. 22, which denotes one of the best preserved lengths of Grims Ditch in the county [Historic Environment Record No 50, Scheduled Monument ref 35346 – 35349]. This prehistoric earthwork (a probable boundary marker, of Later Iron Age date) survives in sections, mainly in woodland, running to the west from Berkhamsted towards Longcroft Farm, on the county boundary, and into Buckinghamshire. The preservation of the ditch varies, but a section cut through it at Hastoe revealed that it was originally 5.5m deep. A section of the earthwork runs just over 50 metres to the north of the development site, between Smarts Wood to Crawleys Lane [Scheduled Monument 35347].

9.37 The County Archaeologist has been consulted and raises no objection; she notes that the details of the proposed development are such that it should be regarded as likely to have an impact on significant heritage assets. She recommends that the standard archaeology conditions (requiring a Written Scheme of Investigation) are included. These have been imposed.

Impact on residential amenities of surrounding properties.

9.38 Given the siting, layout and orientation of the proposed dwellings there would be no adverse impact on the residential amenities of adjacent properties in terms of light, privacy or visual intrusion. Given the generous separation distances and orientation of the dwellings any overlooking would be from such a distance that it would not result in a significant loss of privacy to existing residents. The dormer proposed to the side of the dwelling to Plot 3 which faced Woodview has been omitted. The proposals avoid harm to adjacent properties and thus comply with Policy CS12.

S106 and Planning Obligations

9.39 Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. An application for the proposed development would be CIL liable.

The Charging Schedule clarifies that the site is in Zone 1 within which a charge of £250 per square metre is applicable to this development. The CIL is calculated on the basis of the net increase in internal floor area. CIL relief is available for affordable housing, charities and Self Builders and may be claimed using the appropriate forms.

Other Matters

9.40 In their objections residents have raised several other issues; setting of precedent, exclusion of parts of existing site and reference to case law dealing with development in the Green Belt. With regard to precedent, each case must be assessed on its own merits. The application site is considered PDL wherein re-development is not inappropriate, and in any event there are very special circumstances which are specific to this case and site alone. These could not simply be applied to other sites. It is acknowledged that only part of the land in the applicant's ownership is contained within the current application. Whilst ideally the application would cover all the land (including the blue land to the north) and indeed this was requested, there is no mechanism by which the Local Planning Authority can insist on this. The application as submitted must be assessed and determined.

Notwithstanding this, the blue land is currently open and contains no buildings or lawful structures; as such its development in the future would require planning permission. The re-development of the application site with the dwellings proposed is considered acceptable and no regard has been given to the blue land in these considerations. Turning lastly to the case law (*Boot v Elmbridge Borough Council*) the matter of 'appropriate' development and whether the site constitutes PDL has already been addressed and as it is concluded that the proposed development does not have a greater impact than the existing development is not inappropriate. In any event, there are also very special circumstances that weigh in favour of the proposal.

10. RECOMMENDATION – That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions and for the following reasons :

Conditions/Reasons for Refusal

No	Condition
1	<p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.</p>
2	<p>Other than site clearance and grounds works, no above ground development shall take place, until samples of the materials proposed to be used on the external walls/roofs of the development shall have been submitted to and approved in writing by the local planning authority. The approved materials shall be used in the implementation of the development. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection.</p> <p>Reason: To ensure a satisfactory appearance to the development in accordance with Policy Cs12 of the Core Strategy 2013.</p> <p>Reason: In the interests of the visual amenities of the Chilterns Area of Outstanding Natural Beauty in accordance with Policy CS27 of the Core Strategy 2013.</p>
3	<p>Prior to the occupation of the dwellings hereby approved full details of both hard and soft landscape works shall have been submitted to and approved in</p>

	<p>writing by the local planning authority. These details shall include:</p> <p>hard surfacing materials; means of enclosure; soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; trees to be retained and measures for their protection during construction works; proposed finished levels or contours; car parking layouts and other vehicle and pedestrian access and circulation areas; minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting etc);</p> <p>The approved landscape works shall be carried out fully in accordance with the details agreed and thereafter maintained as such.</p> <p>Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Policies Cs12 and CS27 of the Core Strategy 2013.</p>
4	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the prior written approval of the local planning authority:</p> <p>Schedule 2 Part 1 Classes A, B, C, D, E, F & G Part 2 Classes A, B and C</p> <p>Reason: To enable the local planning authority to retain control over the development in the interests of safeguarding the residential and visual amenity of the locality.</p>
5	<p>1a). Contaminated Land Condition</p> <p>Other than site clearance works (not demolition) no development, shall take place until a Phase I Report to assess the actual or potential contamination at the site has been submitted to and approved in writing by the local planning authority. If actual or potential contamination and/or ground gas risks are identified, further investigation shall be carried out and a Phase II report shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. If the Phase II report establishes that remediation or protection measures are necessary, a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>For the purposes of this condition:</p> <p>A Phase I Report consists of a desk study, site walkover, conceptual model and a preliminary risk assessment. The desk study comprises a search of available information and historical maps which can be used to identify the</p>

	<p>likelihood of contamination. A simple walkover survey of the site is conducted to identify pollution linkages not obvious from desk studies. Using the information gathered, a 'conceptual model' of the site is constructed and a preliminary risk assessment is carried out.</p> <p>A Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment where required.</p> <p>A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.</p> <p>Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.</p> <p>1b). All remediation or protection measures identified in the Remediation Statement referred to in Condition 1a above shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development hereby permitted.</p> <p>For the purposes of this condition: a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.</p> <p>Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32 and the NPPF (2012).</p> <p>Informative: Paragraph 121 of the NPPF states that all site investigation information must be prepared by a competent person. This is defined in the framework as 'A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.' Contaminated Land Planning Guidance can be obtained from Regulatory Services or via the Council's website www.dacorum.gov.uk</p>
6	<p>Other than site clearance works, no demolition/development shall commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:</p> <ol style="list-style-type: none"> 1. The programme and methodology of site investigation and recording

	<p>2. The programme for post investigation assessment</p> <p>3. Provision to be made for analysis of the site investigation and recording</p> <p>4. Provision to be made for publication and dissemination of the analysis and records of the site investigation</p> <p>5. Provision to be made for archive deposition of the analysis and records of the site investigation</p> <p>6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.</p> <p>Reason: To safeguard archaeological features of interest in accordance with Policy CS27 of the Core Strategy 2013.</p>
7	<p>i) Demolition/development shall take place in accordance with the Written Scheme of Investigation approved under condition 6.</p> <p>ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 6 and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.</p> <p>Reason: To safeguard archaeological features of interest in accordance with Policy CS27 of the Core Strategy 2013.</p>
8	<p>Prior to the occupation of the dwellings hereby approved, all buildings and structures, storage containers and goods stored externally (including those structures not substantially completed), other than those shown for retention on the approved plans or permitted by this permission, shall be demolished / removed and the materials arising from demolition / clearance permanently removed from the site.</p> <p>Reason: In the interests of maintaining the open character of the Green Belt and AONB in accordance with Policies CS5 and CS24 of the Core Strategy 2013.</p>
9	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) the garages hereby permitted shall be kept available at all times for the parking of vehicles associated with the residential occupation of the dwellings hereby approved and they shall not be converted or adapted.</p> <p>Reason: In the interests of highway safety and to safeguard the appearance of this part of the Green belt and AONB in accordance with Policies CS5, CS8 and CS24 of the Core Strategy 2013.</p>
10	<p>The development hereby permitted shall be carried out in accordance with the following approved plans/documents:</p> <p>1180/AG(0)01 - Location Plan</p> <p>1180/AG(0)02 Rev A - Existing Site Plan</p> <p>1180/AG(0)03 Rev B - Proposed Site Plan</p> <p>1180/AG(0)04 Rev A - Plot 1</p> <p>1180/AG(0)05 Rev A - Plot 2</p>

<p>1180/AG(0)06 Rev A – Plot 3 1180/AG(0)07 Rev A - Street Elevations</p> <p>Reason: For the avoidance of doubt and in the interests of proper planning.</p> <p>Article 35;</p> <p>Un-expected Contaminated Land Informative In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority with all works temporarily suspended because, the safe development and secure occupancy of the site lies with the developer.</p> <p>I hope the above clarify our position on the submitted application?</p> <p>Should you have any further query in respect of the application, please do not hesitate contact me on Ext 2719 quoting Flare reference 551456.</p>

Appendix A

Consultation responses

Scientific Officer - Contamination

Please be advise that we have **no objection to the proposed development in relation to Noise, Air Quality and land contamination.**

However, considering the nature of proposed end use i.e. residential with private garden, the following planning conditions and informative are recommend should planning permission be granted.

1a). Contaminated Land Condition

No development, shall take place until a Phase I Report to assess the actual or potential contamination at the site has been submitted to and approved in writing by the local planning authority. If actual or potential contamination and/or ground gas risks are identified, further investigation shall be carried out and a Phase II report shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. If the Phase II report establishes that remediation or protection measures are necessary, a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority.

For the purposes of this condition:

- A Phase I Report consists of a desk study, site walkover, conceptual model and a preliminary risk assessment. The desk study comprises a search of available

information and historical maps which can be used to identify the likelihood of contamination. A simple walkover survey of the site is conducted to identify pollution linkages not obvious from desk studies. Using the information gathered, a 'conceptual model' of the site is constructed and a preliminary risk assessment is carried out.

- A Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment where required.
- A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

1b). All remediation or protection measures identified in the Remediation Statement referred to in Condition 1a above shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development hereby permitted.

For the purposes of this condition: a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32 and the NPPF (2012).

Informative:

Paragraph 121 of the NPPF states that all site investigation information must be prepared by a competent person. This is defined in the framework as 'A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.' Contaminated Land Planning Guidance can be obtained from Regulatory Services or via the Council's website www.dacorum.gov.uk

2). Construction Management Plan Condition

No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan should consider all phases of the development.

Therefore, the construction of the development shall only be carried out in accordance with the approved Construction Management Plan which shall include details of:

- a) Construction vehicle numbers, type, routing
- b) Traffic management requirements
- c) Construction and storage compounds (including areas designated for car parking)

- d) Siting and details of wheel washing facilities
- e) Cleaning of site entrances, site tracks and the adjacent public highway
- f) Timing of construction activities to avoid school pick up/drop off times
- g) Provision of sufficient on-site parking prior to commencement of construction activities
- h) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- i) Construction or Demolition Hours of Operation
- j) Dust and Noise control measure
- k) Asbestos control measure where applicable

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way, in accordance with Core Strategy (2013) Policy CS8.

3). Un-expected Contaminated Land Informative

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority with all works temporarily suspended because, the safe development and secure occupancy of the site lies with the developer.

County Fire and Rescue Response

I refer to the above mentioned application and am writing in respect of planning obligations sought by the County Council towards fire hydrants to minimise the impact of development on Hertfordshire County Council Services for the local community.

Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit. We reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.

All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed buildings by the developer through standard clauses set out in a Section 106 legal agreement or unilateral undertaking.

Buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.

The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22). In practice, the number and location of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known, which is usually after planning permission is granted. If, at the water scheme design stage, adequate hydrants are already available no extra hydrants will be needed.

Section 106 planning obligation clauses can be provided on request.

Justification

Fire hydrant provision based on the approach set out within the Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link:
www.hertsdirect.org/planningobligationstoolkit

The County Council seeks fire hydrant provisions for public adoptable fire hydrants and not private fire hydrants. Such hydrants are generally not within the building site and are not covered by Part B5 of the Building Regulations 2010 as supported by Secretary of State Guidance "Approved Document B".

In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:

(i) Necessary to make the development acceptable in planning terms.

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).

All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22).

(ii) Directly related to the development;

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

(iii) Fairly and reasonable related in scale and kind to the development.

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

I would be grateful if you would keep me informed about the progress of this application so that either instructions for a planning obligation can be given promptly if your authority is minded to grant consent or, in the event of an appeal, information can be submitted in support of the requested provision.

Wigginton Parish Council

Original Plans;
Wigginton Parish Council wish to make no comment on this application.

Amended Plans;
Wigginton Parish Council discussed this planning application and would like to support the application.

Herts County Council Highways

Original Plans;
Decision

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

This application is for Change of use from nursery to residential. Redevelopment of site to provide four new dwellings.

HIGHWAY COMMENT

HCC road hierarchy states that Tinkers Lane does not form part of the adopted public highway. It is accessed from a crossroads with Shootersway and Hamberlins Lane.

Looking through the application form there are no plans to change the current access arrangements and adequate off street parking will be provided for the proposed development.

As Tinkers Lane is a private road, Hertfordshire County Council as highway authority has no jurisdiction over this section of road and considers that the proposal will not have an unreasonable impact on the safety and operation of the adjoining highways.

Amended Plans;

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

This application is for Change of use from nursery to residential. Redevelopment of site to provide four new dwellings. This amendment includes plans of the garages for the proposed dwellings.

HIGHWAY COMMENT

HCC road hierarchy states that Tinkers Lane does not form part of the adopted public highway. It is accessed from a crossroads with Shootersway and Hamberlins Lane.

Looking through the application form there are no plans to change the current access arrangements and adequate off street parking will be provided for the proposed development.

As Tinkers Lane is a private road, Hertfordshire County Council as highway authority has no jurisdiction over this section of road and considers that the proposal will not have a severe residual impact on the safety and operation of the adjoining highways

Chilterns Conservation Board

OBJECT.

Land at Woodview Nurseries Wiggington Herts

Change of use from nursery to residential redevelopment to provide four new dwellings.

DBC reference 4/03275/17/FUL |

2nd February 2018

CCB Holding Objection

The Chilterns Conservation Board (CCB) has been recently alerted to this application. In view of the close proximity to the close for consultations we would propose that these comments are submitted in as 'holding objection' in that, as we set out, we do not consider this application can progress to decision due to the lack of information provided. We set out the policy background as affects the AONB here and our duties under the Countryside and Rights of Way Act. We are aware that the land is also Green Belt and that is a separate policy matter, albeit the existing use within the Green Belt benefits the open character of the site, which also contributes to the character of the AONB In this location.

Pre-application (informal) Opinion on behalf of the Chilterns Conservation Board

Section 87 of the Countryside and Rights of Way Act 2000 sets out the general purposes and powers of a Conservation Board and includes, section 87(1) It is the duty of a conservation board, in the exercise of their functions, to have regard to (a)the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and (b) the purpose of increasing the understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty, but if it appears to the board that there is a conflict between those purposes, they are to attach greater weight to the purpose mentioned in paragraph (a). section 87 (2) A conservation board, while having regard to the purposes mentioned in subsection (1), shall seek to foster the economic and social well-being of local communities within the area of outstanding natural beauty... and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic or social development within the area of outstanding natural beauty.

Relevant Legislation and Policy Tests, including AONB Management Plan.

The principal issue in the consideration of planning merits will be the conservation and enhancement of the special qualities of the AONB. This land is within a sensitive part of this nationally protected landscape and any planning assessment will require a detailed understanding of the landscape character and the impacts upon this highly valued landscape. Such work would need to be undertaken in accordance with the guidance in the Landscape Institute's GLVIA 3rd edition. We could not find any such assessment in the accompanying papers. There is no commentary in the Design and Access Statement nor the supporting planning statement on the special qualities in any meaningful way.

The site is part of the Hertfordshire landscape character area study and sits on the boundary between landscape character areas 110 ASHLYNS

AND WIGGINGTON PLATEAU and 114 TRING GAP FOOTHILLS. Area 114 and 110 both include strategy and guidelines for managing change which share a common objective to 'promote the appropriate management of woodland in order to conserve and where absent to re-establish a rich ground flora and the distinction between different management systems, such as high forest and coppice with standards. To encourage replanting plantations with indigenous mixed broadleaves.'. The overall impression is one of tranquillity and enclosure. The wider area contains a gently undulating plateau forming part of the Chilterns dip slope, historic estate land including Tring Park to the north, registered parkland, the suburban edge of Tring and extensive mixed woodlands. The application site and area generally is nestled within woodlands and surrounded by more open farmed landscapes.

Key legislation and policy will be as follows:

Legislation: section 85 (i) of the Countryside and Rights of Way (CROW) Act -'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'

Development Plan Policy: Core Strategy POLICY CS24: The Chilterns Area of Outstanding Natural Beauty The special qualities of the Chilterns Area of Outstanding Natural Beauty will be conserved. The scarp slope will be protected from development that would have a negative impact upon its skyline. Development will have regard to the policies and actions set out in the Chilterns Conservation Board's Management Plan and support the principles set out within the Chilterns Buildings Design Guide and associated technical notes.

Saved Local Plan POLICY 97 CHILTERN'S AREA OF OUTSTANDING NATURAL BEAUTY. In the Chilterns Area of Outstanding Natural Beauty the prime planning consideration will be the conservation of the beauty of the area; the economic and social well-being of the area and its communities will also be taken into account. Any development proposal which would seriously detract from this will be refused. Wherever development is permitted it will be on the basis of its satisfactory assimilation into the landscape. Every effort will be made to discourage development and operations that would adversely affect the beauty of the area. Landowners are encouraged to adopt the following planning guidelines which will contribute to the preservation and enhancement of the area (and continues).

Management Plan: The AONB Management Plan 2014-2019 at L5 - 'Developments which detract from the Chilterns' special character should be resisted'. D1 - The natural beauty of the Chilterns AONB should be conserved and enhanced by encouraging the highest design standards, reinforcing local distinctiveness and respecting the landscape, settlement character and special qualities of the AONB. D6 - 'Where new housing development is proposed this should only be permitted if its scale, massing and density reflect the local context and have regard to the special qualities of the AONB'. D11 - 'Enhancement of the landscape of the AONB should be sought by the removal or mitigation of intrusive development'. D12 - 'Development should be sought that represent the highest environmental and design standards whilst complementing the

character of the AONB'.

National Planning Policy Guidance: Paragraph 115 of the National Planning Policy Framework (NPPF) states that 'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty';

The Chilterns Buildings Design Guide and Supplementary Technical Notes, provides detailed guidance on the design detail of buildings, once the principle of development is established.

Conclusions

Following our initial review of the papers the principle of development is not established with respect to AONB policy alone and there is no explanation of the landscape impact as set against the landscape sensitivity as would be required by the Landscape Institute GLVIA 3rd edition. The Management Plan countenances the removal of intrusive development but the current use is unlikely to fall into that category and temporary storage and general site ephemera would only be afforded a little weight as a material planning consideration. More importantly there is no design rationale for the proposed dwellings as set against the landscape requirements and the Chilterns Buildings Design Guide, as may apply.

In conclusion we would report that the current application cannot progress and it may be prudent for the applicant to resolve Green Belt policy matters first before continuing, after which AONB matters must be addressed. Within the remit of the National Planning Policy Framework this site would not be deemed to be previously developed land, as set out in the glossary definition.

There is no Landscape and Visual Impact Assessment prepared in accordance with the Landscape Institute's Guidelines (GLVIA 3rd edition) so there is insufficient information on which to determine the impacts.

CCB is grateful for the opportunity to submit these comments.

Yours sincerely

Michael Stubbs MRICS (Planning and Development)

Planning Adviser on behalf of the Chilterns Conservation Board

The Lodge Station Road Chinnor Oxfordshire OX 39 4HA

The Chiltern Society

I know Tinkers Lane and have just visited it again, and of course it is a rural private road.

The Nursery immediately establishes the rural atmosphere of the road, and the existing houses are all well spaced out, with land around them.

I am not in favour of this application for a cluster of four new dwellings which will not enhance the rural character of the road. Any new building in the AONB must enhance the natural surroundings.

This cluster of dwellings would also create a precedent. Whereas at present, each house in Tinkers Lane is set in it's own land, if this application is approved, it could encourage other owners to seek to build more clusters of houses. This would certainly lead to a more urban character, which must be avoided.

Tinkers Lane is some distance from facilities such as transport, schools, doctors.

Trees and Woodlands

There are no trees on this site that are a constraint to development. The difference to the landscape between this traditional nursery and a number of new houses, best determine by policy than opinion.

In the event of recommending a grant for this proposal, please condition a detailed landscaping scheme.

Herts County Archaeology

Please note that the following advice is based on the policies contained in National Planning Policy Framework (NPPF).

The development site is partially in Area of Archaeological Significance no. 22, which denotes one of the best preserved lengths of Grims Ditch in the county [Historic Environment Record No 50, Scheduled Monument ref 35346 – 35349]. This prehistoric earthwork (a probable boundary marker, of Later Iron Age date) survives in sections, mainly in woodland, running to the west from Berkhamsted towards Longcroft Farm, on the county boundary, and into Buckinghamshire. The preservation of the ditch varies, but a section cut through it at Hastoe revealed that it was originally 5.5m deep.

A section of the earthwork runs just over 50 metres to the north of the development site, between Smarts Wood to Crawleys Lane [Scheduled Monument 35347].

I believe that the position and details of the proposed development are such that it should be regarded as likely to have an impact on significant heritage assets. I recommend, therefore, that the following provisions be made, should you be minded to grant consent:

1. A programme of archaeological evaluation (in the form of trial trenches) of the proposed development site, before any development commences.
- 2) Such appropriate mitigation measures indicated as necessary by that evaluation. These may include:
 - a) the preservation of any archaeological remains *in situ*, if warranted;
 - b) the appropriate archaeological excavation of any remains before any development commences on the site, with provisions for subsequent analysis and publication of results;
 - c) the archaeological monitoring and recording of the ground works of the development, including foundations, services, landscaping, access, etc. (and also including a contingency for the preservation or further investigation of any remains then encountered).
- 3) The analysis of the results of the archaeological work with provision for the subsequent production of a report and an archive, and the publication of these results, as appropriate;
- 4) Such other provisions as may be necessary to protect the archaeological interests of the site

I believe that these recommendations are both reasonable and necessary to provide

properly for the likely archaeological implications of this development proposal. I further believe that these recommendations closely follow para. 141, etc. of the National Planning Policy Framework, and the relevant guidance contained in the National Planning Practice Guidance, and in the Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015).

In this case two appropriately worded conditions on any planning consent relating to these reserved matters would be sufficient to provide for the level of investigation that this proposal warrants. I suggest the following wording:

Condition A

No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Condition B

- i) Demolition/development shall take place in accordance with the Written Scheme of Investigation approved under condition (A).
- ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

If planning consent is granted, this office will be able to advise further on the requirements for the investigation and to provide information on accredited archaeological contractors who may be able to carry out the work.

Appendix B

Neighbour notification/site notice responses

Objections

Address	Comments
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Ben Leys - OBJECT;

Tinkers Lane, as you are fully aware is in the Chiltern AONB, it is a rural private lane, with existing houses well spaced out, with land around them. We feel no consideration has been given to Tinkers Lane being in the Chiltern AONB and Green Belt and Grim's Ditch/Ancient Monument being on the land adjacent to the proposed development.

This is not previously developed land - at present there are
Glade House - OBJECT

As per our discussion, we would like to make the following initial observations and representations;

1. The application concerns a scheme within Chiltern AONB, and we are aware that you have received representations from both the Chiltern Society and the Chiltern Conservation Board.
1. Further, Grim's Ditch, a Scheduled Monument protected under the Ancient Monuments & Archaeological Areas Act 1979 traverses the applicant's site. This is clearly shown on plans of the area.
1. We chose to live in this special Lane because of its setting, and its reputation for being rigorously protected Green Belt land.
1. We are unclear as to why the application deals only with part of the applicant's site. We contend that we would need to know the plan for the entire site, and not just a part of it, so as to avoid any risk of mission creep.
1. We are of the understanding that the site does not qualify as Previously Developed Land, upon which the application is predicated because of the Agricultural covenant the town that the applicant's current residence (which we gather is to remain) is situated. The entire site therefore is predicated upon that agricultural land use. As you will be aware, PDL does not apply to greenhouses for agricultural purpose and we contend are not permanent structures. For ease of reference, see <https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary>
1. We are of the view that the site layout is inappropriate, as the proposed homes face inwards to a cul-de-sac and are not in keeping with the setting out of the private Lane. As a private Lane community, we would insist that any new houses are set well back from the Lane.
1. Regrettably, the applicant has still not communicated with us or other immediate neighbours to his site, so that we have not had any opportunity to understand or discuss his aspirations. We are not necessarily opposed to any development on the site because the existing nursery is a blot on the landscape, and some say a health hazard (allegedly there has been hearsay of contaminated land towards the rear of the site); however that is not justification to grant town planning consent for houses on Green Belt, AONB and Scheduled Monument land, just because the nursery business has been run down over recent years.
1. The amateurish scheme approach to date doesn't even represent the correct existing site layout compared with the proposed, and anyway is not representative of the applicant's site. Should the Council have a mind to grant consent for a scheme on the Woodview Nursery land, the setting out of the proposed houses, and access to it across private land will need to be very carefully considered before granting consent because the consented scheme would depend upon it.
1. We further contend that the density of the site is not in keeping with the setting or the amenity of an Area of outstanding Natural Beauty.
1. Should the Council decide to consent to redevelopment of Woodview Nursery, others may be inclined to pursue an application for redevelopment of their land in the Lane, and you can appreciate that expectations will run high in that context.

We gather that you have not yet visited site but when we spoke you were aware that Woodview, the applicant's previous redevelopment 18 months ago, has been

constructed at odds with the architects drawings you uploaded (dated August 2017) for the current Woodview Nursery application, and still remains empty.

We may well submit further representations once we have attended the Wigginton Parish Council meeting on 20 February 2018. In the meantime, please take the above as representations and objections of the scheme as currently shown on your website.

Farlands - OBJECT

We are writing to object to the above planning application on several grounds.

Green Belt

There has recently been a review of Green Belt Boundaries and there is consultation at the moment going forward under an Issues and Options document for the period to 2031-2036. This plot was not proposed in either as being suitable for exclusion from the Green Belt, nor is any consultation planned on this issue. The site remains covered by Green Belt designation and there is no evolving policy of the Planning Authority that might change that.

2. The application is not an appropriate land use within the Green Belt

Current use of a good proportion of the site (adjoining Tinkers Lane) is for the growing, storage and display of plants, shrubs and saplings. As such this part of the site is at present open and attractive.

The erection of a dwelling or dwellings on this part of the site reduces and does not preserve the openness of the Green Belt.

R (Boot) v Elmbridge Borough Council [2017] EWHC 12 (Admin) in the High Court clarifies the approach that planning authorities should take when applying guidance of the National Planning Policy Framework (NPPF) to applications for development within the Green Belt.

It is stated within the NPPF that the test for appropriate development is subject to the proviso that it ***“preserves the openness of the Green Belt and does not conflict with the purpose of including land within it.”***

Elmbridge BC argued that the planning committee could decide that the proposal preserved the openness of the Green Belt, even if it caused limited harm, on the basis that all new buildings in the Green Belt caused some harm to openness.

However, the High Court ruled that a development cannot *“preserve”* the openness of the Green Belt if it causes harm to openness.

3. The application fails to preserve the openness of the Green Belt and reduces that openness.

In addition “very special circumstances” are required under paragraph 88 of the NPPF to justify development within the Green Belt.

3. The application fails to demonstrate any very special circumstances to justify development in the Green Belt.

Previously Developed Land

This is defined as land which *is or was occupied by a permanent structure*. However it excludes land that is or has been occupied by *agricultural or forestry buildings*.

The application site has been occupied by a business that includes agriculture. The commonly accepted definition of “agriculture” includes “horticulture” and the normal activities of a “nursery”. The differences, if any significant ones do exist, are only those of scale and here there is no recognisable dividing line. There is no argument about whether businesses which raise seed potatoes or seed corn are engaged in agriculture. There is no discernible difference in principle between that and the activities of Woodview Nursery who plant and grow on seedling tomatoes and tomato plants, shrubs, saplings and potatoes in grow bags. They have therefore been engaged in agriculture.

In addition Woodview Nursery have been engaged in the felling and lopping of trees either themselves or through other contractors and have produced mulch and wood fuel from the waste. Seasonally they sell locally grown Christmas trees. They have therefore been engaged in forestry.

The buildings on the site are poly tunnels and greenhouses. Neither of these types of building are permanent structures.

4. The application does not qualify as Previously Developed Land because (a) the buildings are used for agriculture and forestry and (b) are not of a permanent nature.

AONB

The Planning Authority has the duty to have regard to the statutory purposes of AONBs to ‘conserve or enhance the natural beauty of their area’ been carried out and to take into account the AONB Management Plan.

5. The application will have a negative impact on the openness of the AONB
6. No evidence has been provided that the proposed buildings will be either well positioned with regard to each other, to the existing nearby properties or to surrounding AONB.

Other Issues

The site is poorly located as a development for multiple houses. It is unsustainable in terms of access to transport, educational and social facilities, employment sites, usable broadband and to the highway network (the road abutting being a private road).

7. The site fails to meet current national requirements in terms of sustainability and access to social and physical infrastructure

The site will cause damage to the setting of Ancient Monument 28(b) (Grimm’s Ditch) and will encroach onto Archaeological Area 22

8. The site is unsuitable in terms of its proximity to an Ancient Monument and presence of an Archaeological Area.

We would be grateful if you could address these issues in your report and draw the committee's attention to this objection.

Commenting

Address	Comments
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Condoover House

I am writing to advise you that I am withdrawing our objection to the above scheme, as per the amended application, as advised in your letter of the 22nd May 2018.

I also have to advise you that the applicant has not given me any assurances in connection with further development of the site and I am, therefore, relying on the Dacorum Planning Authority to ensure that the principles and obligations of further development in a place with a designation of an Area of Outstanding Natural Beauty, are strictly adhered to.