

<u>Location:</u>	<b>Site of Former 15 Luton Road Offley Hertfordshire</b>
<u>Applicant:</u>	<b>Mr John Kelly</b>
<u>Proposal:</u>	<b>Erection of one detached 3- bedroom dwelling house, including use of existing garage and existing vehicular access and provision of 2no further on-site car parking spaces (as amended by drawings received 16th and 18th December 2020).</b>
<u>Ref. No:</u>	20/02631/FP
<u>Officer:</u>	<b>Tom Allington</b>

**Date of expiry of statutory period:** 8 January 2021

**Extension of statutory period:** 12 February 2021

**Reason for referral to Committee:**

Under the Council's scheme of delegation any application may be referred to the Planning Control Committee by the Development and Conservation Manager if the application is considered to be controversial, of significant public interest or is likely to have a significant impact on the environment. In this case, in light of the lengthy and complex planning history of this site it is decided to refer this matter to the Planning Control Committee for Members' determination.

**1.0 Relevant History**

- 1.1 12/00256/1: Three detached dwellings together with detached garages and associated parking. (Amended plans received 20/03/12, 24/03/12 and 01/05/12). Approved 29/05/2012 by Planning Committee (this is referred to later in this report as the '2012 approval').
- 1.2 12/02507/1: Alterations to roof pitches of plots A and C together with velux windows to facilitate living accommodation in attic space; repositioning of chimney stacks to plots A and C; increase ground floor living space, extend front porch and general layout amendments to plots A and C to be the same as plot B; re-positioned access, provision of landscaping and material details (as minor material amendment to planning reference 12/00256/1 for three detached dwellings together with detached garages and associated parking granted permission on 29/05/12). (Amended plans received 07/12/12 and 03/01/13). - AMENDED DESCRIPTION. Although this was originally approved 19/02/2013 this remains subject of an ongoing Judicial Review.
- 1.3 13/02910/1: Retention of three detached dwellings with detached garages and associated parking as variation to planning permission ref: 12/00256/1 granted 29 May 2012. (Supplementary information relating to a sunlight and daylight assessment and additional plan no. 386-206 site layout with planning approval ref: 12/00256/1 overlay

received February 2014). Split decision 26/03/2014 (Committee Decision) – Approval of Plots A and C and Refusal of Plot B (the site subject of this application) for the following reason:

*By reason of the size and position of the dwelling on Plot B this results in an over dominance of the historical building 3-4 Claypit Cottages and harm to the living conditions of the occupiers of those dwellings*

This refusal was subject of an Appeal (Hearing) which was dismissed by the Planning Inspector on 13/10/2014 (this is referred to later in this report as the ‘2014 appeal decision’).

1.4 14/00090/1ENF: Enforcement Case opened in October 2014 on the allegation that a dwelling had been erected without planning permission (not in accordance with previous planning permission). See 1.7 below.

1.5 14/03152/1: Retention of Plot B with alterations to the roofs (half hip roof to main dwelling) of the dwelling and the garage with hip roof (as amended by plan no. 386 402A received 07 July 2015). Refused (Planning Committee) 01/07/2016 for the following reason:

*By reason of its size, scale and proximity to the boundary the dwelling on plot B would have an dominant and oppressive impact on 3-4 Claypit Cottages to the significant detriment to the living environment of the occupiers of that property contrary to the provisions of Policy 57 of the District Local Plan No.2 with Alterations (originally adopted April 1996) and provisions of the National Planning Policy Framework.*

1.6 15/00001/1: Retention of Plot B with alterations to the roof of the dwelling and relocation of the garage and associated alteration to the access road (as amended by plan no. 386-502-B received 07 July 2015). Refused (Planning Committee) 01/07/2016 for the following reasons:

1 *By reason of its size, scale and proximity to the boundary the dwelling on plot B would have an dominant and oppressive impact on 3-4 Claypit Cottages to the significant detriment to the living environment of the occupiers of that property contrary to the provisions of Policy 57 of the District Local Plan No.2 with Alterations (originally adopted April 1996) and provisions of the National Planning Policy Framework.*

2 *The relocated garage, by reason of its size, location and proximity to No. 9 Luton Road would have an adverse impact on the occupiers of 9 Luton Road to the significant detriment of the living environment of the occupiers of that property contrary to the provisions of Policy 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations (adopted April 1996) and the provisions of the National Planning Policy Framework.*

1.7 14/00090/1ENF: Service of Enforcement Notice on 13/09/2013 requiring complete demolition and removal of the unauthorised dwelling at Plot B. This was subject of an appeal which was originally upheld and planning permission granted for the dwelling as built via a decision dated 09/08/2017. However, this decision was quashed by way of a Consent Order by the High Court, following a Judicial Review into the decision.

A second Hearing was held (by a different Inspector) and the Appeal was dismissed via a decision dated 18/09/2018 and the enforcement notice was upheld, although it did allow for the retention of the garage as built (this is referred to later in this report as the '2018 appeal decision').

The unauthorised dwelling has now been demolished, although the garage remains in place.

- 1.8 19/02950/FP: Erection of one 3-bed detached dwelling (as amended by plans received 24/01/2020). Withdrawn 19/02/2020.
- 1.9 20/00701/FP: Erection of one 3-bed detached dwelling (as amended by plans and documents received 30th June 2020). 'Not proceeded with' (made invalid as inaccurate plans were submitted).

## 2.0 **Policies**

### 2.1 **North Hertfordshire Local Plan No.2 with Alterations**

LP7 – Selected Villages beyond the Green Belt

LP26 - Housing Proposals

LP55 - Car Parking Standards

LP57 - Residential Guidelines and Standards

### 2.2 **National Planning Policy Framework**

SECN5 - Delivering sufficient supply of homes

SECN8 - Promoting healthy and safe communities

SECN9 - Promoting sustainable transport

SECN11 - Making effective use of land

SECN12 - Achieving well-designed place

### 2.3 **Supplementary Planning Documents**

Design Supplementary Planning Document

Vehicle Parking at New Developments Supplementary Planning Document

### 2.4 **North Hertfordshire Draft Local Plan 2011-2031**

D1 - Sustainable Design

D3 - Protecting Living Conditions

D4 - Air Quality

SP1 - Sustainable Development in North Hertfordshire

SP2 - Settlement Hierarchy

SP8 - Housing

T2 - Parking

### 3.0 **Representations**

3.1 **Offley Parish Council:** No representations received.

3.2 **NHDC Environmental Health – Land contamination:** No objection

3.3 **NHDC Environmental Health - Noise:** No objection, subject to an informative regarding construction noise and hours.

3.4 **NHDC Environmental Health – Air Quality:** No objection, subject to a condition requiring an Electric Vehicle charging point (and associated informative).

3.5 **NHDC Waste and recycling:** No objection

3.6 **HCC Highways:** No objection, subject to an informative regarding temporary works to highway land.

3.7 **HCC Historic Environment (Archaeology):** No objection

### 3.8 **Neighbour Consultation**

The application has been consulted on via a site notice and neighbour notification. Objections have been received from the occupiers of No.6 and No.3&4 Claypit Cottages and these are summarised as follows (the objections are available to view on the Council's website):

- There seems to be very little difference from the previous submissions, which were dismissed or found to be unlawful.
- The size of the roof and overall height of the proposed building is hugely obtrusive and will have a severe detrimental effect on the overall amenity of No.6 Claypit Cottages.
- The roof is enormous and clearly shows that once the property is built, subsequent alterations and loft conversion applications will no doubt be submitted to accommodate additional living space
- The drawings are misleading in terms of the ground levels and the subsequent ridge height. The two parking spaces would be unusable.
- The drawings show a very large chimney which is some 2 meters higher than the ridge line. This chimney is a monstrosity and would be so out of keeping with the overall aspect and street views of the surrounding area and again will have a great impact on the amenity of No.6.
- No.6 does not have uninterrupted views that the applicant has stated previously and this must be taken into consideration. If a house with the mass as shown is built on the site No.6 will lose the enjoyment of the existing amenity and outlook.

The inspectors previous report defines outlook as a material fact in his decision of August 2018.

- No.6 does not have views to the west – there are partial views to the north, but any property built to the proposed application would completely remove enjoyment of the outlook amenity to the east.
- There is no doubt that the history of this site and the inspectors 2018 decision are material to any future decisions.
- This proposal does not match that approved in 2012. The size of the proposed house should be reduced to match the approved siting.
- The outlook from No.3&4 Claypit Cottages would not be improved.
- The new dwelling would not be in keeping with the existing Plots A and C due to the huge chimney stack, which is only shown on one drawing.
- The swept path survey drawings are misleading as these only work if the cars entering and leaving are the only vehicles on the site. It has been demonstrated that the 4.1 wide entrance is not big enough for two average sized cars to pass each other.

#### 4.0 **Planning Considerations**

##### 4.1 **Site and Surroundings**

4.1.1 Located towards the western edge of Offley, the site is roughly triangular in shape and is to the south of Luton Road, set back from the main road and accessed via a side road from Luton White Hill. The application site is set to the east of a terrace of dwellings know as Claypits Cottages and there are two existing dwellings located to the south of the site, No.9 and No.11 Luton Road, which form part of the original larger site, which was formally a masonry yard. The application site shares an access with No.9 and No.11 Luton Road, with a shared turning area between the site and these existing dwellings.

4.1.2 The land includes the existing/ retained garage building, which is located in the south-west corner of the site and the remainder of the site is currently enclosed with a timber fence around its perimeter. The site is not located within any designated areas, although it is located adjacent to the Offley Area of Archaeological Interest, which extends to the east of the site.

##### 4.2 **Proposal**

4.2.1 *Erection of one detached 3- bedroom dwelling house, including use of existing garage and existing vehicular access and provision of 2no further on-site car parking spaces (as amended by drawings received 16th and 18th December 2020).*

4.2.2 The application seeks planning permission for the erection of a two storey, three-bedroom detached dwelling. The proposed dwelling would be located approximately in the centre of the site and would measure 6.8m in depth by a width of 9.7m. The proposal would have a height of 8.1m to the ridge of the roof and an eaves height of approximately 5m. The proposal would include a chimney stack to the north-eastern side elevation which would measure approximately 10.1m in height and the proposals also include for a single storey lean-to at the southern front elevation, which would accommodate an entrance porch and a ground floor WC. The proposed dwelling would be of facing brick with a plain tile roof.

The application is supported by the following documents:

- Planning Statement (and associated appendices)
- Design and Access Statement
- Site construction management plan
- Swept-path plans

#### 4.3 Key Issues

4.3.1 The key issues in the determination of this application are as follows:

- Principle of the proposed development in this location
- Impact on the character and appearance of the site and surrounding area
- Impact on the amenity and living conditions of neighbouring properties
- Access and parking
- Environmental considerations

##### **Principle of the proposed development**

4.3.2 The site is located within the village boundary of Offley, where housing proposals are supported in principle, in accordance with Saved Policy 7 and Policy 26 of the Saved Local Plan and Policies SP1, SP2 and SP8 of the Emerging Local Plan (ELP). In addition, planning permission was previously granted for a dwelling on this plot, under permission reference 12/00256/1. As such, no objection is raised with regard to the principle of the proposed dwelling on this land.

##### **Impact on the character and appearance of the site and surrounding area**

4.3.3 Policy D1 of the ELP states that *'Planning permission will be granted provided that where development proposals: a. Respond positively to the site's local context.* Paragraph 127 of the NPPF states that:

*Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

4.3.4 Claypit Cottages to the west of the site are of Victoria era and the area of housing to the east of the site is of post-war era and is of a suburban character. The two dwellings directly to the south of the site are of a more modern design an appearance, having been constructed in 2013. The proposed dwelling would be of a relatively simple form and design, similar to the two neighbouring properties to the south at No.9 and No.11 Luton Road. The proposal would be of a suitable scale, relative to the size of the plot and it is also considered that the proposed dwelling would be an acceptable height, which would also relate well to surrounding neighbouring dwellings. It is also worth noting that the dwelling would be of a similar footprint to that approved for this plot in 2012 (under reference 12/00256/1) and would be of a reduce height, at 8.1m to the roof ridge compared to the 9.6m ridge height approved in 2012.

- 4.3.5 The proposed dwelling would include a chimney stack to the north-eastern side elevation and which would measure approximately 10.1m tall (including the chimney pot detail at the top – the main stack would measure approximately 9.35m) and which neighbours have raised objections to. Although this would be 2m taller than the ridgeline of the proposed dwelling, it is considered that the chimney would be in keeping with the surrounding area, as surrounding neighbouring properties also include chimneys, albeit lower than that proposed. Overall, it is considered that the proposed chimney would not detract from the character of the area and it would be of a suitable size in keeping with the proposals, providing some visual interest. As such, the overall height and scale of proposed chimney would not, in itself, warrant a reasonable reason for refusal.
- 4.3.6 In light of the above observations, it is considered that the proposed development would be in keeping with the site and surrounding area, would be of an acceptable scale and design and so would be in accordance with both local and national planning policy in this regard.

#### **Impact of the proposed development on the amenity and living conditions of neighbouring properties**

- 4.3.7 Policy D3: 'Living conditions' of the emerging Local Plan states that 'Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions'. Support text under Policy D3 states that '*All development has the potential to have an adverse impact on its neighbours, in a wide variety of ways. Such harm may arise from traffic generation, parking, loss of daylight and sunlight, noise, overlooking, pollution (including light pollution) and dominance as well as other issues*'. It is noted that this Policy was not under consideration at the time the 2012 approval was granted, as it did not yet exist at that time. Any potential overbearing or dominant impact would have been assessed by the case officer in 2012, under saved Policy 57 of the Adopted Local Plan, just as it needs to be considered now for the current planning application, under both saved Policy 57 and emerging Policy D3.
- 4.3.8 It is considered that this is the most key consideration in relation to this site and the current proposal, given the previous planning history of this site. In addition, it is noted that of the objections received from neighbours, these for the main part relate to the impacts on the amenity of neighbouring properties.
- 4.3.9 As is well established in the planning decision making process, each application must be determined on its own merits and so this section of the report will outline and assess the specifics of this current proposal. However, the planning history of a site and any previous decisions are also a material planning consideration. The planning history of this site is outlined above, at section 1 of this report. Of this history, it is considered that three decisions are of most relevance in this case.
- 4.3.10 Firstly, planning permission was granted for a dwelling on this site in 2012, under 12/00256/1 (from herewith referred to as the '2012 approval'). The scale, height and siting of that proposed dwelling, in relation to the impact on neighbouring properties, was found to be acceptable by the Council, approval by Planning Control Committee in accordance with officer recommendation. The relevant approved plans for this site ('Plot B') are attached to this report at Appendix 1. However, the 2012 approval was not implemented and an unlawful dwelling was constructed on site, in a differing location.

4.3.11 Subsequently, there have been two appeal decisions relating to the dwelling previously built on this site. Both appeals were dismissed and both found that due to the particular height, scale and siting of the dwelling as previously built (now demolished), it had a detrimental impact on the living conditions at No.3&4 Claypit Cottages. The two appeal decisions referred to are the decision by Planning Inspector Christa Masters in 2014 (referred to as the '2014 appeal decision') and Planning Inspector John Braithwaite in 2018 (referred to as the '2018 appeal decision'). These appeal decisions are attached at Appendix 2 (the 2014 appeal decision) and Appendix 3 (the 2018 appeal decision) of this report.

4.3.12 With regard to the 2012 approval and any weight which can be attributed to this previous decision, it is noted that this was considered as a 'fall-back' position during the course of the 2014 appeal as the 2012 approval remained extant at that time. Although the 2012 approval is now expired, it had also expired when the 2018 appeal decision was under consideration and inspector Braithwaite states at paragraph 18 of his 2018 decision, *'The local planning authority has indicated that approval for the erection of a replacement dwelling would be forthcoming. The fall-back position is realistic and the dwelling as built will be compared against the approved dwelling'*. As such, it is considered reasonable to take a similar approach in terms of the consideration of this current application.

4.3.13 The impact on No.3&4 Claypit Cottages will be assessed first, as this was the main subject of the two previous appeal decisions. One of the key differences between the 2012 scheme found to be acceptable by the Council and the previously built dwelling found to be unacceptable by two inspectors was the siting of the dwelling. The dwelling as previously built was located significantly further to the south and to the west within the plot, compared to the 2012 approved dwelling, to the extent that much of the south-west side gable elevation sat alongside much of the shared boundary with No.3&4. Inspector Braithwaite explains this at paragraphs 19 and 20 of his 2018 appeal decision where he states:

*'19. The site plan approved under the first permission shows the south-west elevation of the dwelling on Plot B to be to the east of the pathway and between two and five metres from the boundary fence, with the associated garage about one metre from the boundary and to the east of the garden..... Because it is further to the south the dwelling has been built to the east of the pathway and the garden at 3-4 Claypit Cottages. It is this factor, above all others, that is critical'*

*'20. The dwelling as built, given its location further to the south, intrudes into and is more prominent in the outlook from 3-4 Claypit Cottages than would be the approved dwelling. Furthermore, given its location further to the west, the dwelling as built is more dominant in the outlook from the neighbouring property than would be the approved dwelling. From the centre of the garden area at 3-4 Claypit Cottages the south-west gable end of the dwelling as built is at a distance of about 14 metres whereas the gable end of the approved dwelling would be about 15 metres away.'*

4.3.14 When looking at the sight-line along the northern boundary of No.3&4, the south-west corner of dwelling as approved in 2012 (the nearest point) would have been set approximately 1.35m north of the that line and the dwelling would not have sat directly alongside the neighbour amenity area. However, due to the unauthorised siting of the dwelling as previously built, it was closer to the shared boundary and sat alongside much of this neighbouring outdoor amenity space, resulting in a dominant and



overbearing impact when viewed from the neighbouring property. It is this that was considered 'critical' by inspector Braithwaite when concluding that the dwelling as-built was harmful to the living conditions of No.3&4.

4.3.15 When assessing the merits of the current proposal, it is noted that drawing 19.20:03J shows that the south-west corner of the proposed dwelling (again, the nearest point) would be set 0.98m to the north of the sight-line of No.3&4. Although this is not set as far to the north as the 2012 approval (it would be approximately 37cm further south), critically the proposed dwelling would not sit directly alongside the amenity space at No.3&4 and would not sit within the primary view when looking east from the neighbouring property. In addition, it is considered that a reasonable gap and set-back of nearly 1m from the line of the neighbouring garden would still be retained. As such the proposal would not be an overly dominant built form when viewed from this neighbouring property. Furthermore, referring to the Inspectors 2018 decision and the distance from the 'centre of the garden' at No.3&4 to the south-west gable elevation of the proposals, the current proposed plans show that the south-west elevation, at its nearest point (south-west corner of the proposed dwelling) would be approximately 15.2m from the centre point of the neighbours garden (the centre of the gable elevation; at its highest point; would be approximately 15.8m away), which is further than both the previously as built dwelling (distance of 'about 14m') and the 2012 approval ('about 15m').

4.3.16 It was the siting of the previously as-built dwelling, together with its height and proximity to No.3&4 as to why it was found to be harmful to the living conditions of No.3&4. The height of the previously as-built dwelling, subject of the 2014 and 2018 appeal decisions, was 9.1m. The issue of the height of the dwelling was exacerbated as it was also found that the ground levels on the application site had been raised. At paragraph 16 inspector Braithwaite explains:

*'16. The dwelling on Plot B has a south-west gable end and a steep roof of about 60 degrees. The drawing of the dwelling approved by the first permission shows the dwelling to have a ridge height of about 9.6 metres. The dwelling as built has a ridge height of about 9.1 metres, but evidence indicates that ground levels on Plot B were raised during the implementation of the development. This became apparent during the Hearing when a drawing (ID3) showing pre-development site levels was compared with a drawing (ID5) showing post-development site levels. This raising of ground levels was also noted at the site visit. The consequence of the actual ridge height of the dwelling, compared to the approved height, and the raising of ground levels is that, in height terms relative to ground levels at 3-4 Claypit Cottages, the dwelling as built is about the same as the approved dwelling.'*

4.3.17 It can be inferred from this that the ground levels had been raised by approximately 0.5m (Inspector Braithwaite suggests the height of 2012 approval at 9.6m and as built at 9.1m would be similar). The dwelling now proposed would have a similar eaves height to the 2012 approval, at 5m. However, the current proposal would have a shallow roof pitch and so the height to the roof ridge would be 8.1m, which is lower than the previously built dwelling subject of the 2014 and 2018 appeals which was 9.1m and is considered to be significantly lower than 2012 approval which was for a ridge height of 9.6m.

4.3.18 Furthermore, as outlined in the Planning Statement and sectional drawings accompanying this application, the dwelling is also proposed at a reduced ground level, compared to the previously built dwelling. The applicant has outlined that during the

demolition of the previous dwelling and the removal of foundations, the ground level was reduced by approximately 0.15m - 0.2m. It is also proposed to further reduce/lower the current ground level so that as a result, the proposed dwelling would be at a ground level approximately 0.30m – 0.40m lower than the previously built dwelling, which was subject of the two appeal decisions (although the ground level would remain approximately 0.1 – 0.2m higher than the 2012 approval). The finished floor levels and site ground levels can be clarified and secured via a suitable condition, to be agreed prior to the commencement of development (to show both existing and proposed levels).

4.3.19 In assessing the particular merits of the current proposal, it is noted from the proposed plans that at its nearest point, the proposed dwelling would be over 5m from the garden at No.3&4 and over 22m from the main eastern elevation of No.3&4, although it would be approximately 19m from an existing ground floor conservatory extension on the eastern elevation of No.3&4, which is not shown on the current proposed plans (the conservatory extension at No.3&4 is shown to be approximately 2.8m in depth, shown on plans for extensions at No.3&4 under reference 11/00874/1HH). The proposed dwelling would be partially screened and separated from the dwelling at No.3&4 by the access path and outbuildings along the shared boundary at No.3&4 and by a tall, dense conifer hedge along the boundary between No.3&4 and No.6. The ridge line of the proposed dwelling would be of the same height as the ridgeline at No.3&4 and the internal finished floor level would be slightly higher than No.3&4 (less than 0.3m above that at No.3-4).

4.3.20 It is noted that the dwelling as currently proposed would not be in the exact same location as the 2012 approval, although its siting further to the south by 0.37m is considered relatively minimal. However, in light of the above observations regarding the distances between the proposal and No.3&4 Claypit Cottages, the siting of the proposed dwelling in relation to the neighbouring property and the reduced height of the proposed dwelling (including a consideration of ground levels), it is your officers view that the current proposal overcomes the reasons why the two previous appeals were dismissed. The proposal would be of a significantly reduced height and would not encroach into the site line of the neighbouring garden (being set 0.98m north of the nearest sight-line). The proposals therefore would not be overbearing and would not be overly dominating when viewed from the neighbouring dwelling. In addition, given the distance between the proposed dwelling and No.3&4, it is considered that the proposal would not result in a significant loss of light to this neighbour. The issue of light was found to be acceptable in relation to the larger, closer building as previously built on site (a BRE assessment was provided as part of the 2014 Appeal) and so the same is considered to be the case for the current proposal, which would be set further away and would be of a reduced height. Lastly, it is noted that the proposed dwelling would not include any openings at first floor level to the south-west side elevation and so would not result in any over-looking or loss of privacy at No.3&4.

4.3.21 With regard to the impact to No.6 Claypit Cottages, objections have been raised by neighbours with regard to the impact the proposals would have on the amenity enjoyed at this neighbouring property. As outlined above, the current proposal is for a dwelling of a reduced height and at a reduced ground level compared to that considered harmful under the two previous appeal decisions. Owing to the re-siting of the proposed dwelling (compared to the previously built dwelling), No.6 would now be the nearest neighbouring property.

4.3.22 On assessing the proposed plans, it is noted that at its nearest point (the north-west corner), the proposed dwelling would be set approximately 7m away from the boundary of No.6 and would be approximately 20m from the main eastern elevation of No.6. However again, as with No.3&4, the proposed plans do not show the outline of an existing conservatory to the side of No.6, which has a depth of approximately 6.1m (taken from plans for extensions at No.6 under ref. 16/03106/1HH). The proposed dwelling would be located approximately 15m from the end of the conservatory at No.6, at its nearest point.

4.3.23 When considering the previously built dwelling and finding harm to the living conditions at No.3&4, Inspector Masters states at paragraph 16 of her decision that:

*'Turning to consider the issue of dominance, overbearing impact and sense of enclosure, it was clear from the site visit that the outdoor amenity space at 3-4 Claypit Cottages is actively used. Indeed there is a garden room close to the shared common boundary and the kitchen window faces the garden. There are limited opportunities for the use of other amenity space at the property.'*

The primary outdoor amenity space at No.3&4 is relatively enclosed and the view to the east from this amenity space is the main outlook and which was directly towards the previously built dwelling (as noted above, which due to its unauthorised location, sat alongside much of the eastern boundary of No.3-4).

4.3.24 In the case of No.6, this dwelling benefits from a much larger outdoor garden and amenity space, compared to No.3&4, which wraps around the eastern side of the dwelling and also to the north of the dwelling. As such, the proposed dwelling would have less of an impact on this neighbour, as it would be less 'intensified', given that No.6 benefits from the use of a larger, more open space, much of which would be set well away from the proposed dwelling. In addition, it is noted that the plot at No.6 is separated from the application site by the driveway and access path which leads from the road to No.3&4. Therefore, No.6 is more separated and more screened from the application site by intervening features including two boundary fences, several outbuildings along the driveway/ path at No.3&4 and a tall, dense hedge along the boundary between No.6 and No.3&4.

4.3.25 Inspector Masters also notes at paragraph 8 of her decision that *'Helpfully, all parties agreed at the Hearing that the separation distances as set out in table 4.5 of the appellant's appeal statement were correct and an accurate reflection of what had been built on site.'* This refers to Table 4.5 of the David Lane Associates Appeal Statement April 2014 which outlines that the 2012 approval would have been set 19.8m away from No.6. As mentioned above, the current proposal would be set a similar distance from this neighbouring property and it is also noted that the proposed dwelling would be of a reduced height, at 8.1m to the ridge level, compared to 9.6m.

4.3.26 In light of the above observations, given the distances between the proposal and No.6 and the relationship between the two plots, whilst the first floor and roof of the proposal would be visible from No.6, it is considered that the current proposal would not have an overbearing or dominant impact on this neighbouring property (and certainly not to the same extent as identified in the two previous appeal decisions, in terms of the harm caused by the previously built dwelling to No.3&4). In addition, given the distance of the proposal from this neighbour and the reduced height compared to the 2012 approval, together with the intervening boundary treatments, it is considered it would not have a materially adverse impact in terms of loss of light (both natural day light and

direct sunlight). Furthermore, as noted above, the proposal would not include any first floor windows facing towards this neighbouring property and so the proposal would not result in any overlooking or loss of privacy at No.6.

4.3.27 The only other neighbouring properties which would likely be impacted by the proposed dwelling, would be those to the south, at No.9 and No.11 Luton Road, which were originally approved as part of the 2012 approval (Plots A and C), together with the third dwelling on the application site. It is noted that at no point throughout the planning history of this site has any harm been identified to these dwellings. The dwelling as previously built and which was subject of the 2014 and 2018 appeal decisions was located further south than that current proposed and thus would have been in closer proximity to these neighbouring properties. The previously built dwelling was also taller in height and built at a higher ground level than that currently proposed. Again, it is noted that no harm was identified to the neighbours at No.9 and No.11 (the appeals were both dismissed due to the identified harm to No.3&4).

4.3.28 The main southern front elevation of the dwelling now proposed would be set approximately 14m from the main front façade of No.9 and approximately 14.8m from No.11, with the shared access driveway and turning space set between and separating these properties from the proposal. The proposal would be of a slightly lower height than both these neighbours. The frontage of dwellings is generally considered to be the public aspect of a property and these distances are considered appropriate and acceptable in this instance, so as not to cause any overbearing impact or loss of privacy. Furthermore, it is also worth noting that the distance between the proposed dwelling and the front of these neighbouring properties is very similar to that under the 2012 approval, which has already been found to be acceptable. Lastly, the proposed dwelling would be located to the north of No.9 and No.11 and so there would be minimal impact in terms of loss of light to these neighbouring properties.

#### Summary on impacts to neighbouring properties

4.3.29 This report has assessed the merits of this application with regard to the potential impacts on neighbouring properties, considering the distance to boundaries and the proposed height and scale of the proposal. In addition, this report has also outlined and taken account the planning history of this site and the different decisions made by the Council and the planning inspectorate on differing proposals for a detached dwelling on this site. In summary, it is found that the proposed dwelling would not result in any significantly adverse impacts to any of the neighbouring properties to warrant or justify a reason for refusal, in this instance. As such, the current proposal is found to be acceptable in this regard.

4.3.30 With regard to the amenity of future occupiers, it is noted that the 3 bedroom dwelling would have sufficient floorspace in accordance with the National Space standards and the property would be served by sufficient outdoor amenity space, to the rear and both sides of the dwelling. However, given the relationship with neighbouring properties, it is considered reasonable to impose a condition in the event that permission is granted, which would restrict Classes A, B, C, D and E (extensions, alterations and outbuildings) permitted development rights.

#### **Access and parking**

4.3.31 The proposed plans show that the dwelling would be accessed from the existing Luton Road side-road, via the same access serving No.9 and No.11 and the same access as approved under 13/02910/1. This existing access has been considered and assessed

by the HCC Highway officer and it is found to benefit from sufficient vision splays, given the nature of the side-road and is therefore considered to be acceptable.

4.3.32 Concerns and objections have been previously raised by neighbours at Claypit Cottages with regard to the shared turning space between the application site and No.9 and No.11, which was subject to a condition on the original 2012 approval. However, the current layout, which would be retained, has now been in place and used by No.9 and No.11 for approximately 7 years (and for a time by the occupiers of the previously built dwelling.). In addition, this matter has not been raised or objected to by either Planning Inspector as part of the two previous decisions. The turning space would measure approximately 10.3m wide by approximately 14m in length and is considered to be of a sufficient size to allow average sized cars/ vehicles to turn so that they would not have to reverse out into the road. The application is also accompanied by swept-path plans, showing how each of the two new proposed parking spaces can be accessed and used (the third space within the garage would also be retained), as well as demonstrating how vehicles at No.9 and No.11 will also still be able to use the turning space.

4.3.33 The provision of three off-street parking spaces is considered sufficient and in accordance with the requirements of the Councils Parking SPD for a three bedroom dwelling. Although the proposals do not outline any specific on-site cycle parking, the proposed dwelling would be served by the existing garage which could provide ample space for the storage of bicycles, in addition to one vehicle.

4.3.34 In summary, no objections have been raised by the Highway officer and it is considered that the access and parking arrangements as proposed would be acceptable.

### **Environmental Considerations**

#### Noise, air quality and land contamination

4.3.35 The site and the proposals have been considered by the Councils Environmental Health Officers and no objections are raised in any of these instances and so the proposal is found to be acceptable in this regard. A condition is recommended which would require that an Electric Vehicle Charging Pont is provided on site. Furthermore, informatives are also recommended relating to British Standards on noise levels during the construction phase and limiting hours of construction.

#### Archaeology

4.3.36 The County Archaeologist has considered the proposals and taking into account the recent history of the site, which included the presence and occupation of a previous dwelling on this site and the complete demolition of that dwelling, including the foundations, it is considered that although the site is adjacent to the Area of Archaeological Significance, the development is unlikely to have a significant impact on heritage assets of archaeological interest. Therefore, no objection is raised in this regard and no conditions are recommended or required.

#### Thames Water

4.3.37 It is noted that a sewer line runs through the site and it is for this reason why the previously built dwelling was moved further south, compared to the 2012 approval. The proposed site plan shows the line and location of the sewer and the rear elevation of the proposed dwelling would be within close proximity to the sewer. However, the

application is accompanied by a letter from Thames Water dated June 2020, which states that they have no objection to the proposals. As such, the sewer would not need to be dug-up and/ or relocated.

#### 4.4 **Conclusion**

4.4.1 The proposed development would be within the village boundaries of Offley and so would be an acceptable form of development in principle. The proposed three bedroom detached dwelling would be of a suitable scale, form and design, in keeping with the character and appearance of the surrounding area. It is found that the proposal would not result in any significantly adverse impacts on the amenity and living conditions of neighbouring properties. As such, the proposed development is considered to be acceptable. I consider there to be no sustainable planning objections to raise to the application and so I recommend that planning permission be granted, subject to certain safeguards set out in the conditions recommended below.

#### 4.5 **Alternative Options**

4.5.1 None applicable

#### 4.6 **Climate Change mitigation measures**

4.6.1 Members will note that the recommendation includes a condition requiring that an EV charging point be installed as part of this proposal.

#### 4.6.2 **Pre-Commencement Conditions**

4.6.3 I can confirm that the applicant is in agreement with the pre-commencement conditions that are proposed.

#### 5.0 **Legal Implications**

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

#### 6.0 **Recommendation**

6.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions 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 wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. Details and/or samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area.

4. Prior to the commencement of the development hereby approved, a landscaping plan is to be submitted to and approved by the Local Planning Authority and only the approved details must be implemented on site. The landscaping plan shall include the following:

- a) which, if any, of the existing vegetation is to be removed and which is to be retained;

- b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting;

- c) the location and type of any new walls, fences or other means of enclosure and any hardscaping proposed including boundary treatments with the neighbouring Claypit Cottages as well as within the development; and

- d) details of any earthworks proposed.

Reason: In the interests of the visual amenity of the site.

5. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality.

6. No development shall take until details of the proposed finished floor levels; ridge and eaves heights of the building hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels surrounding the dwelling hereby approved. The development shall be carried out as approved.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) Order 2015 as amended no development as set out in Classes A, B, C and E of Part 1 of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area.

8. Prior to occupation, the new dwelling shall incorporate an Electric Vehicle (EV) ready domestic charging point.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality.

9. Before the occupation of the dwelling hereby permitted, the car parking facilities shown on the approved plan, including the existing garage, shall be marked out and made available, and shall thereafter be kept available solely for the parking of motor vehicles.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development.

10. The turning space shown on approved plans and located between the dwelling hereby approved and No.9 and No.11 Luton Road shall be kept free from obstruction and free from parked vehicles and shall be available for the use of turning vehicles at all times.

Reason: To allow vehicles to enter and leave the site in a forward gear in the interests of highway safety.

11. Full details of a construction management plan for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (including any pre-construction, demolition or enabling works). The construction project shall thereafter be carried out in complete accordance with the approved management plan unless otherwise agreed in writing by the Local Planning Authority. The phasing programme shall include the following elements:

- a) hours of construction operations including times of deliveries and removal of waste;
- b) measures to minimise dust, noise, machinery and traffic noise impacts during construction;
- c) site set up and general arrangements for storing plant including cranes, materials, machinery and equipment, temporary offices and other facilities, construction vehicle parking and loading/unloading and vehicle turning areas;
- d) screening and hoarding details, to protect neighbouring residents;
- e) end of day tidying procedures to ensure protection of the site outside the hours of construction. The construction activities shall be designed and undertaken in accordance with the code of best practice set out in British Standards 5228 1997;



- f) wheel washing facilities for construction vehicles leaving the site;
- g) storage and removal of building waste for disposal or recycling.

Reason: To ensure the correct phasing of development in the interests of minimising disruption to the public highway during construction, minimising any environmental impacts, in the interests of highway safety and amenity.

**Proactive Statement:**

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**Informative/s:**

1. EV CHARGING POINT SPECIFICATION INFORMATIVE:

Each charging point shall be installed by an appropriately certified electrician/electrical contractor in accordance with the following specification. The necessary certification of electrical installation should be submitted as evidence of appropriate installation to meet the requirements of Part P of the most current Building Regulations.

Cable and circuitry ratings should be of adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco developments).

- o A separate dedicated circuit protected by an RBCO should be provided from the main distribution board, to a suitably enclosed determination point within a garage or an accessible enclosed termination point for future connection to an external charge point.
- o The electrical circuit shall comply with the Electrical requirements of BS7671: 2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7 (PDF). This includes requirements such as ensuring the Charging Equipment integral protective device shall be at least Type A RCD (required to comply with BS EN 61851 Mode 3 charging).
- o If installed in a garage all conductive surfaces should be protected by supplementary protective equipotential bonding. For vehicle connecting points installed such that the vehicle can only be charged within the building, e.g. in a garage with a (non-extended) tethered lead, the PME earth may be used. For external installations the risk assessment outlined in the IET code of practice must be adopted, and may require additional earth stake or mat for the EV charging circuit. This should be installed as part of the EV ready installation to avoid significant on cost later.

2. HCC recommends inclusion of the following highway informative to ensure that any works within the public highway such as along the verge to accommodate the temporary construction access are carried out in accordance with the provisions of

the Highway Act 1980:

Construction standards for works within the highway: All works to be undertaken on the adjoining highway shall be constructed to the satisfaction and specification of the Highway Authority, by an approved contractor, and in accordance with Hertfordshire County Council's publication "Roads in Hertfordshire - Highway Design Guide (2011)".

Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website; <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

3. During the construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.
4. During the phase of construction, no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs and Sundays and Bank Holidays: no work at any time.

## 7.0 **Appendices**

- 7.1 Appendix 1: Approved Plans 11.17.011 and 11.17.03B, under 12/00256/1
- 7.2 Appendix 2: Appeal Decision APP/X1925/A/14/2217598 dated 13 October 2014
- 7.3 Appendix 3: Appeal Decision APP/X1925/C/16/3164458 dated 18 September 2018