

Notice of Meeting



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Western Area Planning Committee Wednesday 29 August 2018 at 6.30pm in the Council Chamber Council Offices Market Street Newbury

Members Interests

Note: If you consider you may have an interest in any Planning Application included on this agenda then please seek early advice from the appropriate officers.

Further information for members of the public

Note: The Council broadcasts some of its meetings on the internet, known as webcasting. If this meeting is webcasted, please note that any speakers addressing this meeting could be filmed. If you are speaking at a meeting and do not wish to be filmed, please notify the Chairman before the meeting takes place. Please note however that you will be audio-recorded. **Those taking part in Public Speaking are reminded that speakers in each representation category are grouped and each group will have a maximum of 5 minutes to present its case.**

Plans relating to the Planning Applications to be considered at the meeting can be viewed in the Council Chamber, Market Street, Newbury between 5.30pm and 6.30pm on the day of the meeting.

No new information may be produced to Committee on the night (this does not prevent applicants or objectors raising new points verbally). If objectors or applicants wish to introduce new additional material they must provide such material to planning officers at least 5 clear working days before the meeting (in line with the Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002).

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact the Planning Team on (01635) 519148
Email: planapps@westberks.gov.uk

Further information, Planning Applications and Minutes are also available on the Council's website at www.westberks.gov.uk

Any queries relating to the Committee should be directed to Rachel Craggs on (01635) 519441 Email: rachel.craggs@westberks.gov.uk

Date of despatch of Agenda: Monday, 20 August 2018



Agenda - Western Area Planning Committee to be held on Wednesday, 29 August 2018
(continued)

To: Councillors Jeff Beck, Dennis Benneyworth, Paul Bryant (Vice-Chairman), Hilary Cole, James Cole, Billy Drummond, Adrian Edwards, Paul Hower, Clive Hooker (Chairman), Anthony Pick, Garth Simpson and Virginia von Celsing

Substitutes: Councillors Jeremy Bartlett, Jeanette Clifford, Mike Johnston and Gordon Lundie

Agenda

Part I

Page No.

1. **Apologies**
To receive apologies for inability to attend the meeting (if any).
 2. **Minutes** 7 - 20
To approve as a correct record the Minutes of the meeting of this Committee held on 27 June 2018.
 3. **Declarations of Interest**
To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).
 4. **Schedule of Planning Applications**
(Note: The Chairman, with the consent of the Committee, reserves the right to alter the order of business on this agenda based on public interest and participation in individual applications).
- (1) **Application No. and Parish: 18/01001/HOUSE - 25 Buckingham Road, Newbury** 21 - 30
- Proposal:** Erection of single storey rear extension; garage conversion to playroom and utility; re-tile existing house with slate tiles; render existing house and extension; removal of existing chimney stacks; alterations to existing porch and bay windows; internal alterations.
- Location:** 25 Buckingham Road, Newbury
- Applicant:** Mr Weaver and Ms Wadsworth
- Recommendation:** **The Head of Development and Planning be authorised to GRANT planning permission subject to conditions.**



Agenda - Western Area Planning Committee to be held on Wednesday, 29 August 2018
(continued)

- (2) **Application No. and Parish: 18/01553/OUTMAJ - Land Off Faraday and Kelvin Road, Newbury** 31 - 42
- Proposal:** S73 application to vary conditions on approved application APP/WO340/W/14/3002040. In order to permit a phased approach [12/00772/xoutmaj refers] Land off Faraday Road, Newbury.
Comprehensive redevelopment of site to include 26,554m² of floor space, providing offices, retail, financial and professional services, hotel, restaurant, hot food take-aways, motor dealership and flats [160 units] with 48 affordable, 330 car parking spaces and new junction onto the A339.
- Location:** Land Off Faraday and Kelvin Road
Newbury
- Applicant:** Faraday Development Limited
- Recommendation:** **The Head of Development and Planning be authorised to GRANT planning permission. Subject to the completion of a s106 obligation.**

Items for Information

5. **Appeal Decisions relating to Western Area Planning Committee** 43 - 56
Purpose: To inform Members of the results of recent appeal decisions relating to the Western Area Planning Committee.

Background Papers

- (a) The West Berkshire Core Strategy 2006-2026.
- (b) The West Berkshire District Local Plan (Saved Policies September 2007), the Replacement Minerals Local Plan for Berkshire, the Waste Local Plan for Berkshire and relevant Supplementary Planning Guidance and Documents.
- (c) Any previous planning applications for the site, together with correspondence and report(s) on those applications.
- (d) The case file for the current application comprising plans, application forms, correspondence and case officer's notes.
- (e) The Human Rights Act.

Andy Day
Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.

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DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

WESTERN AREA PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 27 JUNE 2018

Councillors Present: Dennis Benneyworth, James Cole, Billy Drummond, Paul Hewer, Clive Hooker (Chairman), Anthony Pick, Garth Simpson and Virginia von Celsing

Also Present: Michael Butler (Principal Planning Officer), Derek Carnegie (Team Leader - Development Control), Paul Goddard (Team Leader - Highways Development Control) and Jo Reeves (Principal Policy Officer)

Apologies for inability to attend the meeting: Councillor Jeff Beck, Councillor Paul Bryant, Councillor Hilary Cole and Councillor Adrian Edwards

PART I

10. Minutes

The Minutes of the meeting held on 6 June 2018 were approved as a true and correct record and signed by the Chairman.

11. Declarations of Interest

Councillor Anthony Pick declared an interest in Agenda Item 5(2), but reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

Councillor Dennis Benneyworth and Paul Hewer declared that they had been lobbied on Agenda Item (2).

12. Schedule of Planning Applications

(1) Application No. and Parish: 18/00861/HOUSE - Cherry Hinton, Hampstead Norreys

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 18/00861/HOUSE in respect of the construction of a single storey rear extension and a two storey extension at Cherry Hinton, Newbury Hill. Hampstead Norreys.
2. In accordance with the Council's Constitution, Councillor David Barlow, Parish Council representative, and Ms Teresa Fleetwood, Mr Andy Wilcock, Mr Michael Binns, objectors, addressed the Committee on this application.
3. Derek Carnegie introduced the report to Members, which took account of all the relevant policy and other material considerations. In conclusion the reports detailed that the proposals were acceptable and conditional approval was justifiable. Officers on balance recommended the Committee grant planning permission.

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4. Paul Goddard advised that there would be no change to the access to the property and there was sufficient parking. A condition to minimise disruption during construction was recommended.
5. Councillor Barlow in addressing the Committee raised the following points:
 - 17 letters objecting to the application had been received by the Council.
 - It was disappointing that the Conservation Officer had been unable to comment on the application as the site was close to the conservation area and in his opinion constituted overdevelopment of the site.
 - Cherry Hinton was visible from 1 and 2 Church Street, flint walled properties built in 1910.
 - The Parish Council had been unanimous in its objection to the proposed extension.
 - Neighbours would be overlooked and there would be detriment to their wellbeing and privacy.
 - It was possible to extend the house on the other side without impact on neighbours.
 - It would be contrary to the Council's Core Strategy and the NPPF to approve the application
6. Councillor Garth Simpson asked to be shown the location of Cherry Hinton in relation to the conservation area. Councillor Barlow indicated the location of the conservation area on the block plan.
7. Ms Fleetwood, Mr Wilcock, Mr Binns in addressing the Committee raised the following points:
 - Mr Wilcock explained that he lived at 1 Church Street which bordered Cherry Hinton.
 - He did not object to the single storey rear extension but the side extension was shocking in terms of scale and impact.
 - The case officer had written to the applicant regarding the dominance and private amenity impact of the proposals. Plans were resubmitted and the reduction in size from the original plans was less than 10%.
 - There would be a direct view from the rear of the property into 1 Church Street's courtyard garden and a frosted window was not sufficient to reduce the impact on privacy.
 - There would be a significant impact on the amount of light his property received because the extension would be only a foot away from the boundary and 15ft from the house. There was already a 4ft ground level difference and the extension would be 20ft tall.
 - The block plan shown to the Committee was incorrect.
 - The case officer's concerns regarding the dominance and private amenity impact of the proposals had not been adequately addressed and the recommendation to grant planning permission was unjustified.
 - It was possible for the applicant to make improvements and modernise the property without such a negative impact on neighbours.

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8. Councillor Simpson asked for further information regarding the distance between the properties. Mr Wilcock advised that the distance would be 20ft from the middle of 1 Church Street's courtyard and the upstairs window.
9. Councillor von Celsing in addressing the Committee as Ward Member, made the following points:
 - It was unfortunate that the Conservation Officer had not been able to comment as a result of workload issues.
 - It was accepted that the rear extension could be completed under permitted development rights and it was the side extension which was of concern. It would be too close to neighbouring properties and the differing ground levels lead to it being overbearing.
10. Councillor Pick asked to what extent the roof height had been lowered in the resubmitted plans. Derek Carnegie confirmed it was around 1.5ft and the ground level difference was around 4ft.
11. Councillor Cole asked whether the windows to the extension would be non-opening. Derek Carnegie stated they should have obscure glazing and be non-opening.
12. Councillor Cole further asked to see the correct block plan. (*the block plan was circulated to the Committee*).
13. Councillor Simpson asked what daylight analysis had been undertaken. Derek Carnegie advised that only on-site observations had been undertaken. Councillor Simpson expressed concern that 1 Church Street's courtyard was already small and would become dark should the extension to Cherry Hinton be built.
14. Councillor Clive Hooker enquired whether the size of the remaining garden would be acceptable when the rear extension was constructed. Derek Carnegie advised that officers were content that the remaining space would be sufficient.
15. Councillor Pick expressed the view that the plans could be improved and at present would be dominant and effect the amenity of the residents of 1 Church Street.
16. Councillor Simpson stated that at first he thought he would begrudgingly accept officer's recommendation to approve permission however at the site visit he had been appalled to learn the extent to which the extension would tower over 1 Church Street's backyard. He thought there would be an unacceptable loss of light and a terracing effect. He proposed that the committee reject officer's recommendations and refuse planning permission. The proposal was seconded by Councillor von Celsing.
17. Councillor Cole stated that he did not think the plans were reasonable. He asked officers whether the impact on the neighbour's amenity was a valid reason for refusal. Derek Carnegie responded that officers were of the view that the impact of the extension would not cause a level of harm to justify refusal of planning permission.
18. Councillor Hewer stated that he was familiar with the area and noted that the proposal would cause an imposition however was aware of an application with similar issues in Eddington which had been allowed and therefore would reluctantly accept the officers' recommendation.
19. Councillor Benneyworth expressed the view that if the Council refused planning permission and the applicant appealed it was likely that the decision could be

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overturned. Councillor Cole asked for Derek Carnegie's view who reiterated that officers' balanced view was that the harm caused by the development was not sufficiently significant to warrant refusal.

20. Councillor Pick stated that he would be less worried if 1 Church Street had a similar sized courtyard to 2 Church Street and thought the proposal would be overbearing.

21. The Chairman invited the Committee to vote on the proposal of Councillor Simpson as seconded by Councillor von Celsing. At the vote the motion was carried.

RESOLVED that the Head of Development and Planning be authorised to refuse planning permission for the following reasons:

Reasons

dominance

(2) **Application No. and Parish: 18/00837/FULEXT - Land at former Oakes Bros site, Station Yard, Hungerford.**

(Councillor Anthony Pick declared a personal interest in Agenda Item 5(2) by virtue of the fact that he had held a conversation with the objector, Nicola Scott from Great Western Railway, regarding a separate matter. As his interest was personal and not prejudicial or a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.)

(Councillor Dennis Benneyworth and Paul Hewer declared that they had been lobbied on Agenda Item (2).)

1. The Committee considered a report (Agenda Item 4(2)) concerning Planning Application 18/00837/FULEXT in respect of an application for the erection of 30 flats and associated parking, landscaping and amenity space, with coffee shop on land at the former Oakes Bros site, Station Yard, Hungerford.
2. In accordance with the Council's Constitution, Councillor Carolann Farrell and Councillor Keith Knight, Parish Council representatives, Nicola Scott, Assistant Regional Development Manager East, Great Western Railway, objector, and Mr James Cleary, agent, addressed the Committee on this application.
3. Michael Butler introduced the report to Members, which took account of all the relevant policy considerations and other material considerations. In conclusion the reports detailed that although the proposals were contrary to the Council's policy to protect employment land, the site had been unsuccessfully marketed as such for a considerable length of time and the Planning Inspectorate had allowed at appeal a smaller block of flats on a similar site nearby. Officers had considered whether the appeal decision carried weight in this case and considered that the Planning Inspector's determination in addition to the Government's advocacy of homebuilding led to a conclusion that the proposals were on balance acceptable and conditional approval was justifiable. As the proposals were contrary to policy Officers recommended the Committee refer the application to the District Planning Committee with a recommendation to grant planning permission.
4. Paul Goddard noted that the application was similar to a scheme refused by the Committee in September 2017. Among the reasons for refusal were inadequate pedestrian routes and the loss of parking for commuters. Pedestrian routes were improved in the scheme before the Committee and officers had negotiated with Thames Valley Police regarding the construction of a footway on land in their

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ownership. In the previous application 21 parking spaces would have been lost on land owned by Network Rail, in the current application that would be reduced to 3 spaces lost. The developer had also agreed to make a contribution to cycle storage at the train station. From a Highways perspective the reasons for refusal had been overcome. Transport Policy Officers had expressed concerns similar to Great Western Railway regarding the loss of parking spaces for rail commuters. It was difficult to quantify the impact that the displacement of parking spaces would have on the town. Finally Paul Goddard highlighted that the site, while currently used as a car park, was temporary and its permission had expired two years previously. The car park could close at any time. Highways Officers agreed with the balanced recommendation for approval from Planning Officers.

5. Councillor Knight and Councillor Farrell in addressing the Committee raised the following points:
 - The Town Council supported the application because the area needed to be developed and the development would improve the gateway into Hungerford.
 - The development would offer housing to 60 people and 30% of the units would be affordable housing.
 - The Town Council had a track record of working with West Berkshire Council and would work collaboratively to consider other parking options such as a park and ride service.
 - At present there was no incentive for people to get off the train at Hungerford and the coffee shop would improve the offer for commuters and families using the train station.
 - The Town Council was working with Network Rail and Great Western Railway on the community rail scheme.
6. Councillor Paul Hewer asked Councillor Knight to elaborate on some of the parking solutions that had been considered. Councillor Knight advised that he had held discussions with Clive Tombs to consider improving bus services in the town to prevent residents from driving across Hungerford to park closer to the station. There was scope to run a park and ride from the Triangle, land owned by the Town Council.
7. Councillor Hewer asked for a view on improvements to existing car parks. Councillor Knight advised that he would like to see them tiered.
8. Councillor Pick asked whether the town Council had conducted a survey regarding the extent to which existing car parks were used, noting that the car park at the Oakes Bros site was not full on the day of the site visit. Councillor Knight advised that they had received data from West Berkshire Council regarding the revenue generated from council-run car parks and they were usually busy.
9. Councillor Pick further asked if there would be any concerns with commuters parking at other locations in the town. Councillor Knight advised there were some concerns which he hoped would be mitigated by establishing a residents parking scheme. Councillor Farrell noted that as the car park was temporary and could be withdrawn at any time the Town Council needed to consider alternative parking in any event.
10. Councillor Cole asked how many of all the users of the car park would be commuters. Councillor Knight estimated that over 90% would be commuters. Councillor Cole asked if the Town Council were satisfied to accept the parking

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impact in the event that commuters did not use any of the proposed park and ride. Councillor Knight suggested that there were a number of piecemeal solutions that would need to be pursued.

11. Councillor Garth Simpson expressed the view that it was unlikely that commuters would use a park and ride and would instead prefer to find parking spaces closer to the station. He questioned whether the Town Council could provide the parking spaces required. Councillor Knight stated that the Town Council were looking at what options could be delivered.
12. Ms Scott, in addressing the Committee raised the following points:
 - The proposals would have a significant impact on parking at the station when Great Western Railway were seeking to increase the available parking for rail users in Hungerford.
 - In 2019 there would be new five-carriage trains serving the station which would increase capacity and enable further growth.
 - Rail passenger trips had increased by 78% from Hungerford railway station since 2006 and a further 60% growth was anticipated by 2023/24.
 - Other car parks in the area did not have the capacity to accommodate the displaced cars, should the application be approved.
 - Great Western Railway would like to work with the landowner and West Berkshire Council to consider options to protect the parking provided on the site.
13. Councillor Simpson asked for more information regarding the new trains. Ms Scott advised that from January 2019 new trains would provide an additional 350-400 seats. Councillor Simpson asked how much additional parking was required to accommodate the anticipated growth in rail passengers. Ms Scott confirmed this figure had not yet been calculated.
14. Councillor Hewer noted that Ms Scott had confirmed GWR would be willing to work with the applicants but noted that the applicants had received no offers to purchase the land in the ten years it had been marketed. Ms Scott advised that GWR now took a different view to that of some 8 years ago.
15. Councillor Virginia von Celsing noted that permission to operate a temporary car park expired two years previously and could only be treated as a bonus, rather than parking provision to be lost if the application was approved. Ms Scott replied that although it was private land it was well used by rail passengers.
16. Councillor Dennis Benneyworth asked why GWR had waited until this stage in the process to raise an objection. Ms Scott advised that the perspective of the rail industry had changed and there was now certainty regarding partial electrification of the Bedwyn to London Paddington line. Councillor Benneyworth asked whether GWR would object to an application for employment use. Ms Scott confirmed it would be considered on a case-by-case basis.
17. Councillor Drummond asked whether there was scope to use Network Rail's land on the other side of the railway. Ms Scott advised that any acquisition was unlikely to be a quick solution.
18. Mr Cleary in addressing the Committee raised the following points:

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- The scheme had not been simple to design and issues with previous schemes had now been addressed including the Sustainable Urban Drainage System (SUDS) and there would be a green roof.
 - No objection had been raised by the Environment Agency or Thames Water. Network Rail had objected to the previous scheme and had now agreed that a reduction in spaces to 18 was acceptable.
 - The car park was temporary and would be closed shortly.
 - Officers now accepted that the site could be used for residential development following there being no demand for employment use.
 - Neither GWR nor Network Rail had ever sought to buy the site.
 - Passengers would also travel to the railway station on foot and by bicycle.
 - Other local car parks had capacity and were constantly underused.
 - The scheme would provide 30 dwellings including 9 affordable units which would benefit the area.
19. Councillor Hewer asked when the car park would be closed. Mr Cleary advised that the current owners were happy to keep using the site but the operators wished to withdraw and it was anticipated it would close in summer 2018.
20. Councillor Cole asked who would manage the open space on the site. Mr Cleary advised that a management company funded by the residents would maintain the open space.
21. Councillor Hewer, in addressing the committee as Ward Member, raised the following points:
- If the site were to be converted into a multi-storey car park there would be a greater increase in traffic movements than for residential housing.
 - The 9 affordable units were desperately needed and it was likely the flats would be affordable for first time buyers.
 - The Committee had heard there had been a 78% increase in passengers on the railway. Parking across Hungerford was cheap and there was scope to improve it.
 - He urged the Committee to support the application.
22. Councillor Cole asked whether it would be possible to apply a condition to require acoustic glazing. Michael Butler advised that condition 10 covered the matter and relevant officers would need to be satisfied in order to discharge the condition.
23. Councillor Pick asked for clarity regarding the comment from Network Rail on page 34. Michael Butler advised that there appeared to be a typographical error and 'arising' should be replaced with 'acceptable'.
24. In commencing the debate, Councillor Cole stated that although he did not personally like the design he accepted that it would provide a gateway into the town. He expressed the view that GWR had missed their opportunity to influence how the site was used. The Town Council were satisfied with the proposals and therefore the Committee should find them acceptable. He proposed that the Committee support officers' recommendation to refer the application to the District Planning Committee with a recommendation to grant planning permission. Councillor Hewer seconded the proposal.
25. Councillor Pick advised that he was uncomfortable with some elements of the proposal however he was of the view that it would be a good use of space.

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26. Councillor Benneyworth noted that had the application been for business use the Committee would not have such an involved conversation. The site was valuable land which had been vacant for too long.
27. Councillor Hewer echoed Councillor Cole's views that GWR has missed their opportunity to have more influence over parking on the site.
28. Councillor Simpson expressed the view that there were issues for other parties to resolve however he supported the proposal.
29. The Chairman invited the Committee to vote on the proposal put by Councillor Cole, as seconded by Councillor Hewer, to approve the application. At the vote the motion was carried unanimously.

RESOLVED that Western Area Planning Committee resolve to recommend approval to the District Planning Committee, with conditions, subject to the first completion of a s106 planning obligation to secure the 9 affordable dwellings, and the cycle parking contribution of £30,000.

Conditions

3 years

1 The development shall be started within three years from the date of this permission and implemented strictly in accordance with the approved plans.

Reason: To enable the Local Planning Authority to review the desirability of the development against the advice in the DMPO of 2015, should it not be started within a reasonable time.

Materials

2 No development, shall commence until samples of the materials to be used in the proposed development have been submitted to and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the submission of samples of glass, plastic and mortar materials. Thereafter the materials used in the development shall be in accordance with the approved samples.

Reason: In the interests of visual amenity in accordance with Policy CS19 of the WBCS of 2006 to 2026.

Floor levels

3 No development shall commence until all details of floor levels in relation to existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved levels.

Reason: To ensure a satisfactory relationship between the proposed building and the adjacent land in accordance with Policy CS19 of the WBCS of 2006 to 2026.

Contamination

4. Prior to each phase of development approved by this planning permission no development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:-

i) A preliminary risk assessment which has identified:-

a) all previous uses

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- b) Potential contaminants associated with those uses
- c) a conceptual model of the site indicating sources, pathways and receptors
- d) potentially unacceptable risks arising from contamination at the site.

ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

iii) The results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason. To protect Controlled Waters from pollution. In accord with the advice in the NPPF.

Verification report

5 No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To ensure that contamination at the site is remediated, such that the site does not pose a threat to controlled waters. In accord with advice in the NPPF of 2012.

Unforeseen contamination

6 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason. To protect Controlled Waters from pollution. In accord with advice in the NPPF.

Tree fencing

7 Protective fencing shall be implemented and retained intact for the duration of the development in accordance with the tree and landscape protection scheme identified on approved drawing(s) numbered plan 980-02. Within the fenced area(s), there shall be no excavations, storage of materials or machinery, parking of vehicles or fires. In addition, no development shall take place (including site clearance and any other preparatory works) until the applicant has secured the implementation of an arboricultural watching brief in accordance with a written scheme of site monitoring, which has been submitted to and approved in writing by the Local Planning Authority. In addition, no trees, shrubs

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or hedges shown as being retained on tree survey 980-02 shall be pruned, cut back, felled, wilfully damaged or destroyed in any way without the prior consent of the local planning authority. Any trees, shrubs or hedges felled, removed or destroyed, or any that dies, become seriously damaged or diseased within five years from completion of the approved development, shall be replaced with the same species in the next planting season unless the Local Planning Authority gives written consent for any subsequent variation. In addition, no development shall take place (including site clearance and any other preparatory works) until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The details shall include the treatment of hard surfacing and materials to be used, a schedule of plants (noting species, plant sizes and proposed numbers/densities), an implementation programme, and details of written specifications including cultivation and other operations involving tree, shrub and grass establishment. The scheme shall ensure:

a) completion of the approved landscaping within the first planting season following the completion of the development; and b) Any trees, shrubs or plants that die or become seriously damaged within five years of the completion of the development shall be replaced in the following year by plants of the same size and species. In addition the approved landscaping plan 5 shall be implemented within the first planting season following completion of development or in accordance with a programme submitted to and approved in writing by the Local Planning Authority. Any trees, shrubs or plants that die or become seriously damaged within five years of this development shall be replaced in the following year by plants of the same size and species.

Reason: To ensure the implementation of a satisfactory scheme of landscaping in accordance with the objectives of the NPPF and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006 to 2026.

Waste Water Network.

8 No properties shall be occupied until confirmation has been provided that either:- all wastewater network upgrades required to accommodate the additional flows from the development have been completed; or- a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to sewage flooding and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional flows anticipated from the new development. In accord with the protection of public health in accord with the NPPF advice of 2012.

SUDS

9 No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority. These details shall:-

a) Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the Non-Statutory Technical Standards for SuDS (March 2015), the SuDS Manual C753 (2015) and West Berkshire Council local standards;

b) Include and be informed by a ground investigation survey which confirms the soil characteristics, infiltration rate and groundwater levels (to be monitored through the winter months);

c) Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;

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- d) Include run-off calculations, discharge rates, infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm + 40% for climate change;
- e) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil or groundwater;
- f) Ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines;
- g) Include a management and maintenance plan for the lifetime of the development. This plan shall incorporate arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a residents' management company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. The above sustainable drainage measures shall be implemented in accordance with the approved details before the dwellings are first occupied or in accordance with a timetable to be submitted and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. The sustainable drainage measures shall be maintained and managed in accordance with the approved details thereafter.

Reason: To ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity and ensure future maintenance of the surface water drainage system can be, and is carried out in an appropriate and efficient manner. This condition is applied in accordance with the National Planning Policy Framework, Policy CS16 of the West Berkshire Core Strategy (2006-2026), and Part 4 of Supplementary Planning Document Quality Design (June 2006).

Noise mitigation

10 The applicant shall implement the noise mitigation measures recommended in the submitted 'Assessment of Noise and Vibration' (Ian Sharland Limited Ref M3863 Dated 09/03/18 v.4) to achieve suitable internal noise levels in accordance with BS8233 guideline values. Noise from building plant services shall not at any time exceed a level 10dB below the prevailing background sound when measured at the facade of the nearest noise sensitive location.

Reasons: To protect the amenity of future residents and to minimise the potential commercial impact on the existing public house, in accord with policy OVS6 in the WBDLP of 1991 to 2006.

Construction method statement

11 No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The statement shall provide for:

- (a) The parking of vehicles of site operatives and visitors
- (b) Loading and unloading of plant and materials
- (c) Storage of plant and materials used in constructing the development
- (d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing
- (e) Wheel washing facilities

WESTERN AREA PLANNING COMMITTEE - 27 JUNE 2018 - MINUTES

- (f) Measures to control the emission of dust and dirt during construction
- (g) A scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS5 and CS13 of the West Berkshire Core Strategy (2006-2026), Policy TRANS 1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

Footway/cycleway details

12 No development shall take place until details of a 1.5 metre wide footway to be constructed fronting the site have been submitted and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the footway has been provided in accordance with the approved scheme and any statutory undertaker's equipment or street furniture located in the position of the footway/cycleway has been re-sited to provide an unobstructed footway/cycleway.

Reason: In the interest of road safety and to ensure adequate and unobstructed provision for pedestrians and/or cyclists. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

Vehicle parking

13 No development shall take place until details of the vehicle parking and turning space have been submitted to and approved in writing by the Local Planning Authority. Such details shall show how the parking spaces are to be surfaced and marked out. No dwelling shall be occupied until the vehicle parking and turning spaces/areas have been provided in accordance with the approved details. The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure the development is provided with adequate parking facilities in order to reduce the likelihood of roadside parking which would adversely affect road safety and the flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026). The gradient of private drives shall not exceed 1 in 8 or, where buildings are likely to be occupied by the mobility impaired, 1 in 12.

Gradient of private driveway

14 The gradient of private drives shall not exceed 1 in 8 or, where buildings are likely to be occupied by the mobility impaired, 1 in 12.

Reason: To ensure that adequate access to parking spaces and garages is provided. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

Access construction

15 No development shall take place until details of the proposed accesses into the site have been submitted to and approved in writing by the Local Planning Authority. As a first development operation, the vehicular, pedestrian/cycle access and associated engineering operations shall be constructed in accordance with the approved drawing(s).

Reason: To ensure that the accesses into the site are constructed before the approved buildings in the interest of highway safety. This condition is imposed in accordance with

WESTERN AREA PLANNING COMMITTEE - 27 JUNE 2018 - MINUTES

the National Planning Policy Framework (March 2012) and Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026).

Train station cycle parking

16 No dwelling shall be occupied until a financial contribution of £xxxx [tbc] has been provided for the provision of addition cycle storage facilities within Hungerford Train Station.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the parking, storage and security of cycles. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

Station Road footway improvements

17 No dwelling shall be occupied until dropped kerbing and tactile paving is provided across Station Road south of the Railway Tavern under a Section 278 Agreement or other appropriate mechanism.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the encouragement of walking as a sustainable mode of travel. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

DC

13. Appeal Decisions relating to Western Area Planning Committee

Members noted the outcome of appeal decisions relating to the Western Area.

(The meeting commenced at 6.30 pm and closed at 8.32 pm)

CHAIRMAN

Date of Signature

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Agenda Item 4.(1)

Item No	Application No. and Parish	8/13 week date	Proposal, Location and Applicant
(1)	18/01001/HOUSE Newbury Town Council	25 th July 2018	Erection of single storey rear extension; garage conversion to playroom and utility; re-tile existing house with slate tiles; render existing house and extension; removal of existing chimney stacks; alterations to existing porch and bay windows; internal alterations. 25 Buckingham Road, Newbury Mr Weaver and Ms Wadsworth

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=18/01001/HOUSE>

Recommendation Summary: **The Head of Development and Planning be authorised to GRANT planning permission subject to conditions.**

Ward Member(s): Councillor Anthony Pick and Councillor Mike Johnston

Reason for Committee Determination: Called in by Councillor Anthony Pick due to concerns with regards to the impact on the character of the area.

Committee Site Visit: 23rd August 2018

Contact Officer Details	
Name:	Gemma Kirk
Job Title:	Assistant Planning Officer
Tel No:	(01635) 519111
E-mail Address:	Gemma.Kirk@westberks.gov.uk

1. Site History

- 12/00676/HOUSE: Proposed replacement porch. Approved. 28.05.2012.
- 06/01420/HOUSE: Two storey side extension providing garage with 2 bedrooms and en-suite above, single storey rear extension providing kitchen - rooflights to rear extension and demolition of existing garage/store. Approved. 21.08.2006.

2. Publicity of Application

Site Notice Expired: 05.07.2018

3. Consultations and Representations

Town Council:	Objection: Out of keeping. Buckingham Road is an architecturally important road in Newbury. No. 25 and its neighbours were built in 1928 in Edwardian style and with compatible brick and roofing materials and an architecturally successful extension was built more recently. The adjoining houses in Buckingham Road, which have varying designs, have clay or brown concrete tiling, and chimneys. The proposal would deviate from this style by replacing the brick and wall tiles with render and the concrete tiles with slate, and by removing the chimneys (for which there seems no good reason). The house would then fail to respect the distinctive and attractive character of the rest of the road.
Highways:	No objection: Adequate driveway parking is provided.
Public Protection:	No objection.
PROW Officer	No comments received.
Ramblers Association:	No comments received.
Ecology Officer:	No comments received.
Natural England:	No comments.
Correspondence:	1 letter of objection. The material planning considerations can be summarised as below:- <ul style="list-style-type: none">- Buckingham Road has a distinctive character and appearance, the dwelling itself is of special interest, and the proposed alterations will be out of keeping.

4. Policy Considerations

- 4.1 The statutory development plan comprises the West Berkshire Core Strategy (2006-2026), Housing Site Allocations DPD (HSA DPD) (2006-2026) and the saved policies in the West Berkshire District Local Plan (1991-2006) (Saved Policies 2007).
- 4.2 Other material considerations include government guidance, in particular:-
- The National Planning Policy Framework (July 2018) (NPPF)
 - The National Planning Practice Guidance (NPPG)

4.3 The following policies from the West Berkshire Core Strategy (Core Strategy) are relevant to this application:-

- Area Delivery Plan Policy 1: Spatial Strategy
- Area Delivery Plan Policy 2: Newbury
- CS 14: Design Principles
- CS 19: Historic Environment and Landscape Character

4.4 Paragraph 215 of the NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. Some saved policies from the West Berkshire District Local Plan have not been replaced by policies contained within the Core Strategy and are therefore relevant to this application:

- OVS.6: Noise Pollution

4.5 The following policies from the Housing Site Allocations Development Plan Document (HSA DPD) are relevant to the following application:

- P 1: Residential Parking for New Development

4.6 In addition, the following locally adopted policy documents are relevant to this application:

- Supplementary Planning Guidance: House Extensions (2004)
- Quality Design: West Berkshire Supplementary Planning Document (2006)
- Newbury Town Design Statement (July 2018)

5. Description of Development

5.1 Planning permission is sought for a single storey rear extension following the demolition of an existing rear extension. The garage will be converted to a habitable room and the existing front porch will be replaced. This application also seeks to render the entire property in white k-render with black slate cladding on the bay windows and proposed rear extension. The windows will be reconfigured and replaced with anthracite grey upvc. The roof will be re-tiled with black slate and the chimney stacks will be removed.

5.2 25 Buckingham Road is located to the south of Newbury town centre in the 'Andover Road Garden Suburbs' and 'The City'. The area is characterised with large detached properties with generous size plots. Buckingham Road has wide pavements that are lined with trees. The dwellings in Buckingham Road have been altered and extended which creates variation in the street scene.

5.3 25 Buckingham Road is located adjacent to the junction that joins Buckingham Road and Fifth Road. Due to this location the application site is a highly visible from both roads. However the dwelling is set back from the public highway and vegetation at the front of the site provides some screening.

6. Consideration of the Proposal

The main considerations in the determination of this application are:-

- 6.1 The principle of the development
- 6.2 The impact on the character of the area
- 6.3 The impact on neighbouring amenity
- 6.4 The impact on highway safety
- 6.5 Community Infrastructure Levy (CIL)
- 6.6 The assessment of sustainable development

6.1 The principle of the development

6.1.1 The application site lies within the Newbury settlement boundary as identified by ADPP1 of the Core Strategy. Within settlement boundary there is a presumption in favour of development. This is subject to detailed policies on design, impact on the character of the area and neighbouring amenity; these are discussed below.

6.2 The impact on the character of the area

6.2.1 The NPPF outlines the importance of good design in the built environment. Policy CS14 seeks high quality design to ensure development respects the character and appearance of the area. Policy CS19 seeks the enhancement of both the natural and built environment.

6.2.2 The proposed single storey rear extension is approximately 3.3 metres high and set below the eaves of the existing dwelling. The proposed rear extension is therefore visually subservient to the existing dwelling. The extension is designed with a flat roof which is in-keeping with the existing 2-storey rear element of the dwelling. Due to the subservient design and the rear location it is considered that the extension will not have a harmful impact on the character of the area.

6.2.3 It is acknowledged that the proposed works to modernise the design of the existing dwelling including the alterations to the front elevation, proposed render, re-roofing, removal of chimneys and replacement windows will alter the appearance of the dwelling. This is due to the use of different materials and changes to the architectural details on the front elevation. Therefore 25 Buckingham Road will not echo its neighbour 23 Buckingham Road. It is noted that objections have been raised by both Newbury Town Council and contributors as they consider the works to be incongruous in the street scene and detrimental to the character of Buckingham Road.

6.2.4 The proposed works will not change the form of the roof and will retain the bay window features on the front elevation and therefore keep the majority of the main architectural features. It is also noted dwellings in Buckingham Road are individually designed and therefore the updated appearance will still reflect this.

6.2.5 The use of white render on the dwelling and the slate tiles on the roof differ from the neighbouring property. However, there are examples of both render (e.g. 21 Buckingham Road) and slate roof (e.g. Rutherford House) in the wider locality. The changes to the window frames remove the bars and change to grey upvc material. However, it is noted within the road there are various styles and colour of window frames. The front elevation tile hanging will alter to a slate material that will have different area in comparison to the tile hanging. These introduce new materials on the property. The building is not listed and is not within a Conservation Area. Due to the above it is considered that the materials are acceptable in this location and the impact on the character of the area. Whilst the dwelling is altered, in retaining the majority of architectural features, the proposed works are not detrimental to the extent to warrant refusal.

6.2.6 The application site is visible from Fifth Road and Buckingham Road due to its location on the junction and is prominent in the street scene. The proposed works on the front elevation (including the porch) will not significantly alter the existing building line nor will it decrease the gaps between buildings. The dwelling will therefore not appear any more dominant in the street scene than the existing.

6.2.7 Buckingham Road is described as a 'wide, attractive, tree-lined road' with large detached properties in the Newbury Town Design Statement (July 2018). The Design Statement also states that due to the proximity to St. Bartholomew's School and the heavy footfall associated with this it is important to retain the garden suburb setting. Whilst the proposal may change the appearance of the dwelling the site will retain the existing character described above. It is also considered that the development respects the key principles listed in the Design Statement.

6.2.8 The appearance of 25 Buckingham Road will change due to the proposed works and therefore will not match its neighbours and other dwellings in the locality. However, on balance, it is considered that the works will not appear prominent or incongruous in Buckingham Road and the development will respect the 'Garden Suburb' and 'The City' character of the area. Whilst the use of render, slate and grey upvc materials in principle are considered acceptable it is recommended that the condition for a schedule of materials to be submitted to the Local Planning Authority and samples made available on site is attached. The condition is recommended to ensure that the proposed different materials are appropriate to the character of the area.

6.3 The impact on neighbouring amenity

6.3.1 The proposed flat roof single storey rear extension has a width of approximately 10.5 metres and positioned approximately 1.7 metres from the boundary with 23 Buckingham Road and approximately 5.6 metres from the communal boundary shared with 27 Buckingham Road.

6.3.2 The separation distance between the proposed rear extension and 27 Buckingham Road is considered sufficient to mitigate the impact on neighbouring amenity in terms of overbearing and daylight/sunlight received.

6.3.3 Whilst the proposed rear extension is in close proximity to 23 Buckingham Road it is considered by virtue of design, flat roof with a height of approximately 3.3 metres, there will not be a harmful overbearing and overshadowing impact. Furthermore due to the orientation of the application site there will not be a detrimental impact to sunlight.

6.3.4 The proposed alterations to the front and the conversion of the garage to a habitable room are considered not to have a significant impact on amenity in terms of light received and overbearing impact due to the scale of these works.

6.3.5 The additional openings to the front of the dwelling will not create any direct overlooking into surrounding dwellings and therefore will not have a significant impact on privacy. The re-configuration of the windows at the rear will not have an adverse impact on privacy. No additional windows are proposed on the side elevations. However the existing first floor north-west elevation window was conditioned to be obscure glazed on 2006 planning application and therefore to ensure this is retained when the window is replaced it is recommended that the condition to obscure glaze this window is added.

6.3.6 The dense vegetation on the boundaries is considered to help to alleviate the impact on amenity.

6.4 The impact on highway safety

6.4.1 The amount of parking required will not be affected by the proposal. The proposal will involve the loss of the garage however as per Policy P1 of the HSA DPD garages are no longer considered parking spaces.

6.4.2 The Highway Officer raised no objections to the proposal as adequate driveway parking will be retained on site and the proposal has no implications on highway safety.

6.5 The assessment of sustainable development

6.5.1 The NPPF identifies the 3 dimensions of sustainable development: economic, social and environmental. The policies of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

6.5.2 The proposal makes no significant impact on the social and economic dimensions and therefore is not considered to be harmful. The environmental dimension considers the impact on the natural, built and historic environment which the proposed development respects.

6.6 Community Infrastructure Levy (CIL)

6.6.1 The proposed internal floor space will not increase by more than 100m². Under the Community Infrastructure Levy Charging Schedule adopted by West Berkshire Council the development is not liable to pay CIL.

7. **Response to letters of representation**

7.1 Letters of representation are noted and have been addressed in the report.

8. **Conclusion**

8.1 Having taken in to account the relevant policy considerations and the material considerations referred to above, it is considered, the development is acceptable and conditional approval is justifiable for the following reasons: the proposal will not significantly detract from the 'Garden Suburb' and 'The City' character of the area and there will be no harmful impact on neighbouring amenity. The proposal accords with the NPPF (July 2018) and Policy CS14 and CS19 of the West Berkshire Core Strategy (2006-2026).

9. **Full Recommendation**

The Head of Development and Planning be authorised to **GRANT** planning permission subject to the following conditions:-

1. The development hereby permitted shall be started within 3 years from the date of this permission and implemented in strict accordance with the approved plans.

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

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

- (i) Location Plan (1:2500) received on 30.04.2018;
- (ii) Block Plan received on 31.07.2018;
- (iii) Drawing No.002 received on 10.08.2018.

Reason: To ensure that the development is constructed in accordance with the submitted details assessed against Policies CS14 and CS19 of the West Berkshire Core Strategy (2006 - 2026).

3. No development shall take place until a schedule of the materials to be used on the external surfaces of the hereby permitted works has been submitted to and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to these matters which have been detailed in the current application. Samples of the materials shall be made available for inspection on request. Thereafter the development shall be carried out in accordance with the approved materials.

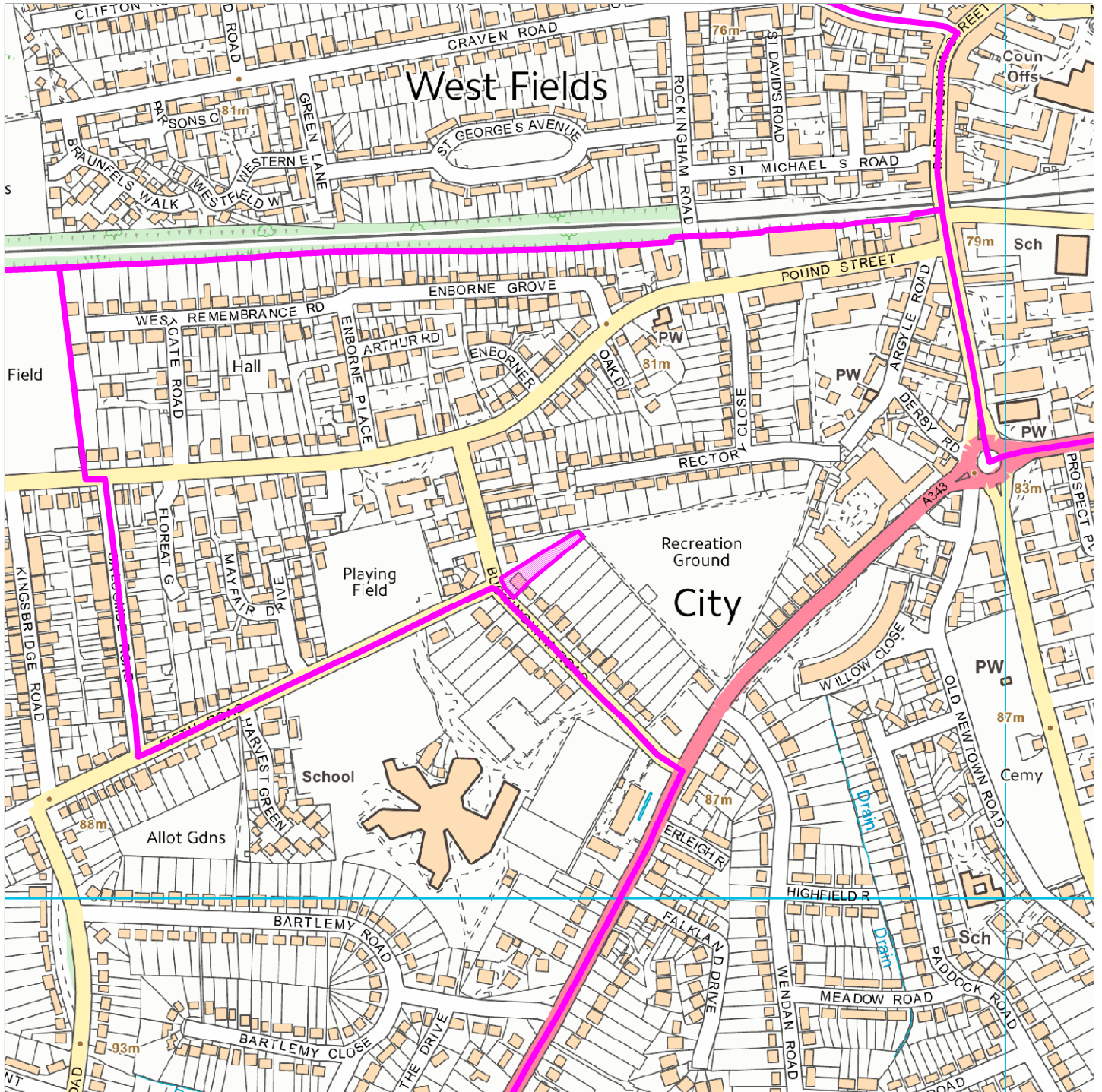
Reason: To ensure that the external materials are visually attractive and respond to local character. This condition is imposed in accordance with the National Planning Policy Framework (July 2018), Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), Supplementary Planning Document Quality Design (June 2006), Supplementary Planning Guidance 04/2 House Extensions (July 2004) and the Newbury Town Design Statement (July 2018).

4. The proposed first floor opening on the north-west elevation shall be fitted with obscure glass within 1 month of being installed. The obscure glazing shall be permanently retained in that condition thereafter.

Reason: To prevent overlooking of 27 Buckingham Road in the interests of amenity. This condition is imposed in accordance with the National Planning Policy Framework (July 2018), Policy CS14 of the West Berkshire Core Strategy (2006-2026), Supplementary Planning Document Quality Design (2006) and Supplementary Planning Guidance 04/2 House Extensions (July 2004).

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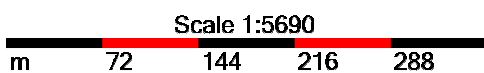


Map Centre Coordinates :

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Organisation	West Berkshire Council
Department	
Comments	Not Set
Date	16 August 2018
SLA Number	0100024151

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Agenda Item 4.(2)

Item No.	Application No. and Parish	8/13 Week Date	Proposal, Location and Applicant
(2)	18/01553/OUTMAJ. Newbury Town Council.	1 st October 2018	<p>S73 application to vary conditions on approved application APP/WO340/W/14/3002040. In order to permit a phased approach [12/00772/xoutmaj refers] Land off Faraday Road, Newbury. Comprehensive redevelopment of site to include 26,554m² of floor space, providing offices, retail, financial and professional services, hotel, restaurant, hot food take-aways, motor dealership and flats [160 units] with 48 affordable, 330 car parking spaces and new junction onto the A339.</p> <p>Land Off Faraday and Kelvin Road Newbury</p> <p>Faraday Development Limited</p>

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=18/01553/OUTMAJ>

Member(s):	Councillors Benneyworth and Fredrickson.
Reason for Committee determination:	The application is a major one and the Council is the freeholder of the application site.
Committee Site Visit:	23 rd August 2018.
Recommendation.	The Head of Development and Planning be authorised to GRANT planning permission. Subject to the completion of a s106 obligation.

Contact Officer Details	
Name:	Michael Butler
Job Title:	Principal Planning Officer
Tel No:	(01635) 519111
E-mail Address:	michael.butler@westberks.gov.uk

1. Site History

08/01255/outmaj. Mixed use development as in the current description. Approved May 2009.

12/00772/xoutmaj. Renewal of the above application. Refused in August 2014. Subsequent appeal allowed on February 1st 2016.

17/00250/pre app. Advice on s73 application - phasing. Letter response on 27th December 2017

18/01454/mdopo. Application to vary the s106 obligation attached to the appeal permission noted.

2. Publicity of Application

Site notice displayed 12th July 2018. Expiry 2nd August 2018.

Advertised as departure July 2018.

3. Consultations and Representations

Newbury Town Council No objections.

Highways No objections.

Tree officer No observations.

Archaeologist. No archaeological implications.

Public representations. None.

4. Policy Considerations

National Planning Policy Framework 2018.

National Planning Practice Guidance 2014.

West Berkshire Core Strategy 2006 to 2026.

Policies ADPP2, CS1, CS5, CS6, CS9, CS13, CS14.

West Berkshire District Local Plan 1991 to 2006. Policy OVS6.

5 Description of development.

5.1 Currently, planning permission exists for the description of development as identified in this report. This involves a substantial mixed use redevelopment of this quarter of the London Road Industrial Estate [LRIE] which lies immediately to the north of the recently constructed link road onto the A339. This permission was allowed at appeal on 1st February 2016, but has not yet been implemented. It is accordingly still extant, but due to expire on 1st February 2019, unless a reserved matters application is submitted on or before that date for the whole of the application site.

5.2 This proposal is NOT to extend the lifetime of the permission via renewal [which is not possible in any event under s73 of the 1990 Town and Country Planning Act] but to amend a number of the planning conditions attached to the original decision applied by the Inspector. The purpose of this application is to allow phasing of the development to be permitted which will enable the applicant [or indeed another developer as the permission is not a personal one] to build the scheme in phases, if required. This phasing will automatically necessitate a range of alterations to the conditions, taking into account any new policies or material

changes on the ground since the appeal decision. This is because the issue of s73 permission is a NEW permission.

- 5.3 For clarity the Council issued a screening opinion on 11th July 2018, noting that no environmental impact assessment was required to be submitted on the new application. In addition, since the current planning permission includes housing, which is a non-employment generating use, it is technically contrary to policy CS9 in the WBCS, so it has been advertised as a departure.

6 Consideration of the application

- 6.1.1 The application needs to be considered under the following issues. The merits of phasing the application, any more consequent changes required, and any s106 obligation implications.
- 6.1.2 The NPPF of 2018 makes it clear that Local Planning Authorities should encourage sustainable development where possible and appropriate: in this case the scheme will be a significant catalyst to the regeneration of part of the LRIE, being brownfield, lying in a highly accessible location. It will create significant new employment and [inter alia] 160 new dwellings, 30% of which will be affordable. Consequently, it is recommended that any variation to the extant permission which will assist in the future implementation of this important scheme, should be supported. The only “downside” of this approach is that the permission could extend the time it will take to build out the whole scheme in a comprehensive fashion: this is a matter which the Committee will need to take into account.
- 6.1.3 Since the planning appeal decision was made the new link road into the site from the A339 has been built. This new link road was [and still is] an integral component of the mixed use scheme before the Committee. Accordingly, condition 9 on the appeal decision, which corresponds to access will need to be re worded. This relates to the provision of the new road, which of course is no longer required to be built, but is clearly still required to serve the future development. This latter point needs to be acknowledged in the new permission.
- 6.1.4 Application 18/01454/mdopo has been submitted by the same applicant as a partner application to this current one. This seeks to modify the present Unilateral Undertaking attached to the appeal decision, which currently does not allow any subsequent s73 permissions to be bound by the Undertaking. If this were to remain the case then the build out of the fresh permission would mean the applicant would not need to provide the 48 affordable units. Clearly this cannot be permitted given the very great need for such housing in the Town and beyond. Accordingly if this s73 application is approved by Committee tonight, no permission will be granted until the mdopo is sealed and completed, thus ensuring the future provision of the affordable units.
- 6.1.5 In order that the Committee can be clear on how the conditions are to be altered the following provides a summary of the main changes:-

Condition 1 - Insert 1st February 2019 in the condition so as not to extend the life time of the permission.

Condition 2 - Approved plans. Amended to exclude the illustrative drawings [as advised in the NPPG] and to exclude the new access link drawings. Also insert date of 1st February 2019 for consistency with the new wording of condition 1. [Since this is a fresh permission].

Condition 6 - Deleted. New condition inserted, which allows for the submission of a phasing programme to be submitted, indicating the location and number of affordable units to be supplied in each phase, to be agreed in writing by the LPA, before development commences.

Condition 9 - Access. Needs to be significantly reworded in order to reflect the build out of the new access road on site.

Other conditions to be amended to allow for phasing e.g. No. 27 relating to a CEMP.
The four contamination conditions are now condensed into one in accord with Council practice.

7 Conclusion.

7.1 In terms of the **planning balance** the Committee should take into account the following material considerations:-

a - If the current application were refused, this would not alter the lifetime or detail of the present extant permission – the same time limits still apply.

b - If the current application is approved this will allow greater flexibility for the applicant [or another developer] in terms of options as to how the scheme is built out over time. Providing such flexibility is encouraged by the NPPF guidance for local planning authorities, in determining such applications.

c - the corollary of the above is that if the developer elects to implement this latter permission, this will potentially extend the lifetime of the actual build out of the scheme, which could be disadvantageous in terms of the social benefits [in terms of the affordable housing] and the clear economic benefits of the mixed use scheme.

7.1.2 On balance the application is duly recommended for approval, having regard [in part] to the Inspector's views in his decision letter about the Council being more pro-active about the future vision for development at the LRIE in general.

8. Recommendation.

Committee grant the application, with conditions varied, subject to the first completion of the s106 obligation as amended under 18/01454/mdopo.

CONDITIONS.

Time

1. The development hereby permitted shall be begun on or before whichever is the later of the following dates:
 - i. on or before 1st February 2019.
 - ii. the expiration of two years from the final approval of the reserved matters [as phased] or, in the case of approval on different dates, the final approval of the last such matter approved.

Reason: To clarify the planning permission in accord with the advice in the DMPO of 2015.

Reserved Matters

2.Full details of the appearance, landscaping and layout of the building(s) (the 'reserved matters') shall be submitted to the Local Planning Authority not later than 1st February 2019 and shall be approved in writing by the Local Planning Authority before any building or other operations start on site having due regard to the parameters and principles for such matters as contained or referred to in the approved drawings originally forming part of planning permission 12/00772/OUTMAJ which is replaced by this permission .

Reason. To clarify the permission in accord with the advice in the DMPO of 2015.

Build out

3. The development must be carried out in accordance with the reserved matters approvals obtained in accordance with condition 2 and other relevant approvals to be obtained from the Local Planning Authority in accordance with the conditions set out in this permission.

Reason: To ensure the correct development is built out on site in accord with the advice in the NPPF2.

Height

4. No building, hereby permitted, shall be higher than 26m above the agreed prevailing ground level of the existing site within the application site area.

Reason: To ensure the future visual impact of the scheme is acceptable having regard to the advice in policy ADPP2 in the WBCS of 2006 to 2026.

Floor levels

5. No phase of the development shall commence until details of floor levels, in relation to existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority; that phase of the development shall be carried out in accordance with the approved levels.

Reason: To ensure potential visual impact of the scheme is acceptable having regard to policy ADPP2 in the WBCS of 2006 to 2026.

Phasing.

6. Within one month of the date of this decision a phasing programme of works shall be submitted to and approved in writing thereafter by the Council. Each phase shall indicate the location and number of affordable units to be provided on site. The development shall then be carried out in strict accord with this phasing plan, unless otherwise agreed in writing by the LPA. For clarity this condition relates to all of the scheme as permitted, not just the residential element.

Reason: To facilitate the implementation of the scheme in accord with the advice in the NPPF2.

Limits on floor space

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, none of the uses permitted by this planning permission shall exceed the following specified gross external floor-space:

- i. the floor-space for B1 office uses shall not exceed 7,234m²,
- ii. the floor-space for Class A1 retail uses shall not exceed 2,200m² and the combined floor-space for use classes A1 and A2 shall not exceed 3,984 m²,
- iii. the floor-space for A3 and A5 uses shall not exceed a combined total of 1,376m², and
- iv. the floor-space for C1 hotel uses shall not exceed 3,562m² or 100 bedrooms.

For clarity and the avoidance of doubt the floor-space specified above relates to the gross external area of buildings (or parts of buildings) used for the specified purpose.

No more than 330 car parking spaces shall be provided.

Reason. To specify the application approved in accord with the advice in the DMPO of 2015.

Total space permitted.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, the total gross external floor-space of the buildings permitted by this decision shall not exceed 26,554m².

Reason: To clarify the permission in accord with the advice in the DMPO of 2015.

Access Link.

9. The development hereby permitted shall be accessed off Faraday Road, Kelvin Road, and Fleming Road - the latter as now reconfigured in accordance with planning permission number 14/03039/ful as shown on plan number 3595/PL21.

Reason. To ensure that the expected traffic generation and accessibility of the scheme is acceptable in accord with the advice in policy CS13 in the WBCS of 2006 to 2026, and the original parameters of the planning permission 12/00772/xoutmaj.

Drainage Strategy

10. No phase of development shall commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved in writing by,[for the particular phase in question,] the Local Planning Authority. No discharge of foul or surface water from the site shall be accepted into the public sewer system, from the phase in question, until the approved drainage works have been completed

Reason: The site must be drained satisfactorily, in accord with the advice in policy CS16 in the WBCS of 2006 to 2026.

Flooding

11. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2012, and produced by SMA, and the following mitigation measures detailed within the FRA:-

- i. limiting the surface water run-off generated by the 1:100 year critical storm event plus 30% (to allow for climate change) so that it will not exceed the greenfield run-off from the undeveloped site and not increase the risk of flooding off-site:-
- ii. plus identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

Reason: The development must not place future occupants at risk of flooding or adjacent land occupiers, in accord with the advice in NPPF2.

SUDS

12. No phase of the development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority, for that phase alone. That phase of the scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied and where appropriate shall continue to be implemented after occupation. The scheme shall also include details of how the scheme shall be maintained and managed after it is occupied, SUDS selection based on the management train outlined in the FRA, measures to ensure there are no soak-aways through contaminated land and where soak-aways are shown to be suitable they shall

be constructed such that they do not penetrate the water table, and they shall not in any event exceed two metres in depth below existing ground levels.

Reason: To ensure the scheme complies with policy CS16 in the WBCS of 2006 to 2026.

Piling

13. Piling or any other foundation designs using penetrative methods will not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The relevant part of the development shall be carried out in accordance with the approved details.

Reason: To ensure that there is no risk of harm or noise to adjacent land occupiers, in accord with the advice in the NPPF2.

Noise

14. No phase of the development shall commence until a scheme of works for protecting the occupiers of the development from externally generated noise has been submitted to and approved in writing by the Local Planning Authority. The details submitted need only relate to the phase in question. All works forming part of the approved scheme shall be completed before any dwelling is first occupied. There shall be no open balconies overlooking the western boundary of the site onto the A339. Noise levels in any amenity area provided shall not exceed $Leq=55dB(A)$, as recommended in WHO guidance. No residential facade shall be less than 10m from the edge of the A339.

Reason: To protect future occupiers from external noise nuisance, in accord with policy OVS6 in the WBDLP of 1991 to 2006.

Noise

15. No phase of the development shall commence until the following has been submitted to the Local Planning Authority:-

- i. the findings of a noise survey (undertaken in accordance with BS 4142 (or such other standard acceptable to the Local Planning Authority) to determine noise levels in the vicinity of the proposed development;
- ii. written details and calculations showing the likely impact of noise from the development;
- iii. a scheme of works or such other steps as may be necessary to minimize the effects of noise from the development;
- iv. written approval of a scheme under (iii) above has been given by the Local Planning Authority.

All works forming part of the scheme shall be completed before any of the dwellings are first occupied, in that phase only.

Reason: To protect surrounding amenity in accord with policy OVS6 in the WBDLP of 1991 to 2006.

Noise

16. The daytime internal noise level (0700-2300) arising from external sources shall not exceed $Leq=40dB(A)$ within any bedroom of the hotel development. The internal night time noise level (2300-0700) arising from external sources shall not exceed $Leq=35dB(A)$ within any bedroom of the hotel. Individual noise events measured with F-time weighting, during the night time period, shall not exceed $Lmax=45dB(A)$. Details of compliance with this standard shall be submitted to the

Local Planning Authority prior to any part of the hotel being occupied. Where compliance to this standard is only achievable with windows closed, an alternative scheme of ventilation shall be submitted to and approved by the Local Planning Authority.

Reason: To protect future occupiers of the hotel from external noise nuisance in accord with policy OVS6 in the WBDLP 1991 to 2006.

Air handling plant

17. No phase of the development on those parts of the scheme where air handling plant is to be incorporated and used shall commence until details of the following have been submitted to the Local Planning Authority:-

a. written details concerning any proposed air handling plant associated with the relevant part of the development including:-

i. the proposed number and location of such plant as well as the manufacturer's information and specifications;

ii. the acoustic specification of the plant including general sound levels and frequency analysis under conditions likely to be experienced in practice;

iii. the intended operating times;

b. calculations showing the likely impact of noise from the relevant part of the development;

c. a scheme of works or such other steps as may be necessary to minimise the effects of noise from the relevant part of the development;

The relevant part of the development shall not commence until written approval of a scheme prepared under (c) above has been given by the Local Planning Authority. All works forming part of the scheme shall thereafter be completed before any of the development is first occupied, within the relevant phase/part of the scheme.

Reason: To ensure that there is no undue noise nuisance arising from air handling plant, in accord with policy OVS6 in the WBDLP 1991 to 2006.

Odour and Noise Suppression – Preparation of Food.

18. No phase of the development, where relevant, shall commence until the applicant has submitted to the Local Planning Authority a scheme of works or such other steps as may be necessary to minimise the effects of odour and noise from the preparation of food associated with the development. The relevant part of the development shall not commence until written approval has been given by the Local Planning Authority to any such scheme of works. The scheme once approved shall be implemented and maintained on the site. For clarity the details submitted need only relate to that phase in question.

Reason: To protect local amenity in accord with the advice in the NPPF of 2018.

Tree Protection.

19. No phase of the development shall commence until a scheme for the protection of trees to be retained has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with BS 5837:2005. Such fencing shall be erected prior to any development works taking place and at least two working days notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Reason: To protect trees on the site in accord with policy CS17 in the WBCS of 2006 to 2026.

For clarity the details submitted need only relate to the phase in question.

Ecology

20. No part of the development, hereby permitted, shall be occupied until a scheme to position 10 bat and 10 swift nest boxes of a type to be agreed has been submitted to, and approved in writing by, the Local Planning Authority. Such approved plans will be implemented and the features shown maintained thereafter.

Reason: To conserve local ecology in accord with policy CS17 in the WBCS of 2006 to 2026.

Land contamination

21. No phase of the development shall commence until full details of how the spoil in that phase will be removed from the site have been submitted to and approved in writing by the Local Planning Authority. The spoil shall be disposed of in accordance with these approved details. No phase of the development shall commence until two copies of a contaminated land assessment and associated remedial strategy, together with a timetable of works, has been submitted to and approved in writing by the Local Planning Authority. The contaminated land assessment shall include a desk study, details of investigative works and sampling, a risk assessment and a remediation strategy:-

- i. the desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study;
- ii. a suitably qualified Consultant shall be appointed to investigate the nature and extent of any contamination, if any, in, on or under all parts of the land to which this permission refers. All investigative works and sampling on site, together with the results of analysis must be submitted to the Local Planning Authority; if a hazard or hazards are identified from such investigations, a site specific risk assessment shall be undertaken to consider risks to wildlife, livestock, ecosystems, building materials, water resources, the future users of the site, surrounding land and any other persons. Approved remediation works shall be carried out in full on site. If during any works any significant underground structure or contamination is discovered which has not previously been identified then the additional structure or contamination shall be fully assessed. No further remediation works shall take place until a report detailing the nature and extent of the previously unidentified structures and contamination, together with a further remedial action plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all further remediation works shall be undertaken in accordance with the most recent approved remediation action plan. On completion of all remediation works in each phase, a closure report shall be submitted to and approved in writing by the Local Planning Authority. The report shall make reference to all published information associated with the development and shall demonstrate compliance with the remediation strategy. It shall include the following: details of quality assurance certificates to show that all works have been carried out in full and according to best practice; consignment notes demonstrating the removal of contaminated materials; certification to show that new material brought to the site is uncontaminated; and details of any on-going post remediation monitoring and sampling, including a reporting procedure to the Local Planning Authority.

For clarity the details to be submitted need only relate to the specific phase in question.

Reason: To ensure protection of public health in accord with the advice in the NPPF of 2018.

Hours of working.

22. The hours of work for all contractors (and sub-contractors) for the duration of the site development shall, unless otherwise agreed in writing by the Local Planning Authority, be limited to

07.30hrs to 18.00hrs on Mondays to Fridays, 07.30hrs to 13.00hrs on Saturdays, and NO work shall be carried out on Sundays or Bank Holidays.

Reason: To protect local amenity in accord with policy OVS6 in the WBDLP of 1991 to 2006.

Control of dust.

23. No phase of the development shall commence until the applicants have submitted to the Local Planning Authority a scheme of works or such other steps as may be necessary to minimise the effects of dust from the development. Development shall not commence until written approval has been given by the Local Planning Authority to any such scheme of works. The scheme once approved shall be implemented and maintained on the site. For clarity the details to be submitted need only relate to that phase in question.

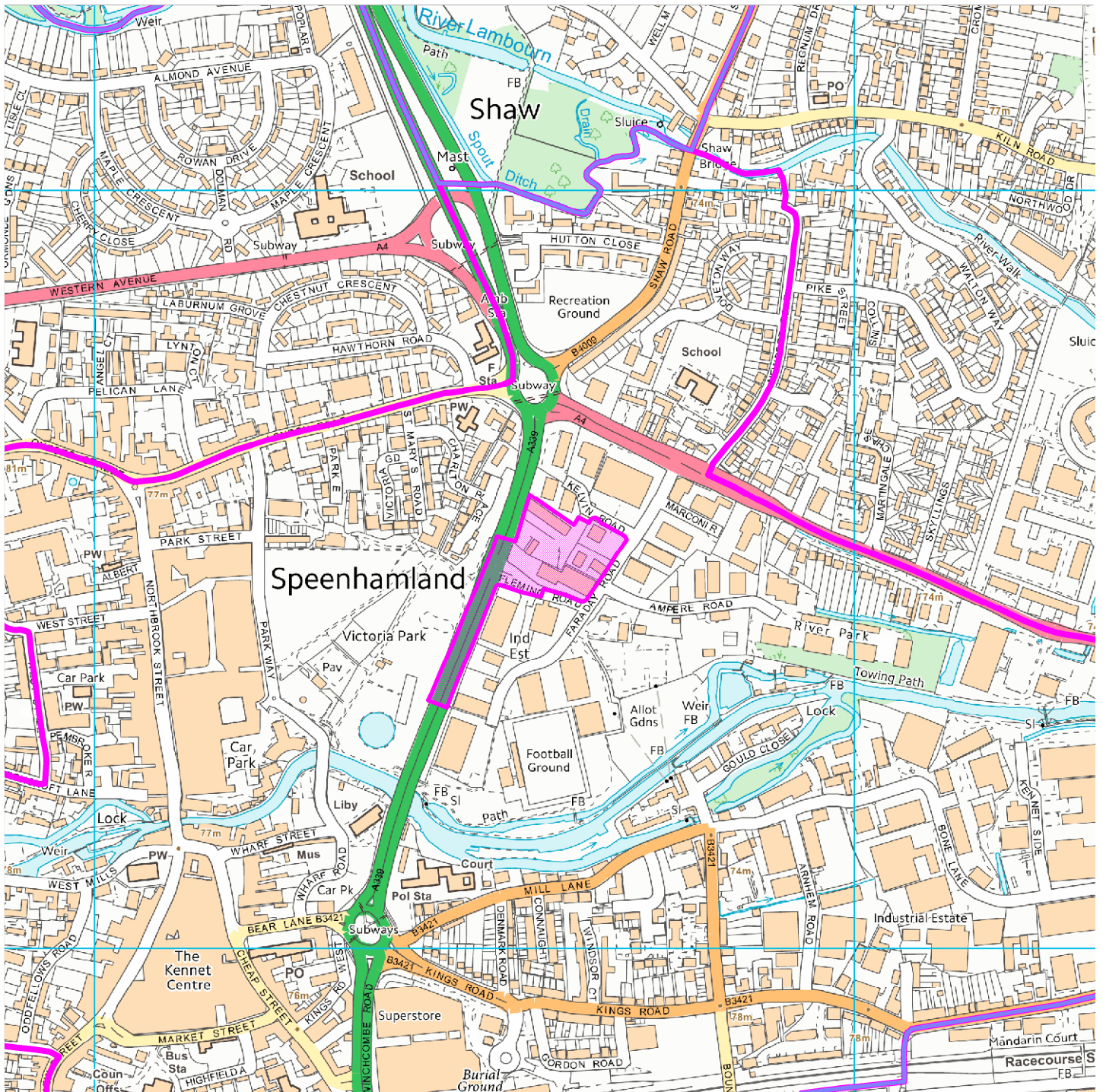
Reason: To protect local amenity, in accord with the advice in the NPPF2.

CEMP

24. No phase of the development shall commence until a Construction Environmental Management Plan has been submitted to the Local Planning Authority for both the preparatory and construction works. The Plan should detail items such as phasing of construction, lorry routing and potential numbers, types of piling rig, pneumatic breakers and earth moving machinery to be implemented and measures proposed to mitigate the impact of construction operations. In addition the Plan should make note of any temporary lighting that will be used during the preparatory and construction phases of the development. The Plan shall be implemented in full and retained until the development has been fully constructed. Any deviation from the Plan shall be first agreed in writing with the Local Planning Authority. For clarity the details to be submitted need only relate to the phase in question.

Reason: To ensure that the development is built out in a manner which will not disrupt local traffic flows or local amenity in accord with the advice in policy CS13 in the WBCS of 2006 to 2026.

DC

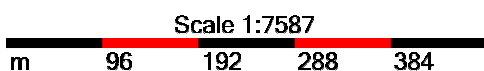


Map Centre Coordinates :

Scale : 1:7586

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Organisation	West Berkshire Council
Department	
Comments	Not Set
Date	16 August 2018
SLA Number	0100024151

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Agenda Item 5.

APPEAL DECISIONS WESTERN AREA-COMMITTEE

Parish and Application No Inspectorate's Ref	Location and Appellant	Proposal	Officer Rec.	Decision
NEWBURY 17/01808/OUTD PINS Ref 3191372	Garden Land at 5 Normay Rise Newbury Mr and Mrs Power	Outline application for erection of dwelling with integral garage. Matters to be considered: Access.	Delegated Refusal	Allowed 22.5.18
KINTBURY 17/03561/OUTMAJ PINS Ref 3198161	Land South Of Irish Hill Road and North Of Holt Road Kintbury Baylight Properties Ltd	Hybrid application seeking planning permission for: (1) Outline planning permission for the erection of 40 dwellings (14 x 2 bed, 8 x 3 bed and 18 x 4 bed) with associated landscaping and parking with matters of Access and Layout to be considered. (2) Change of use of land to public open space	Delegated Refusal	Withdrawn 14.6.18
GREENHAM 17/02462 PINS Ref 3194575	Weir House, Overbridge Square, Newbury Overbridge Development Ltd	Application to determine if Prior Approval is required for the Change of Use of office (Class B1) to 24 residential dwellings.	Delegated Refusal	Withdrawn 27.6.18
GREENHAM 17/02463 PINS Ref 3194576	Mill House, Overbridge Square, Newbury Overbridge Development Ltd	Application to determine if Prior Approval is required for the Change of Use of office (Class B1) to 25 residential dwellings.	Delegated Refusal	Withdrawn 27.6.18
GREENHAM 17/02460 PINS Ref 3194574	Lock House, Overbridge Square, Newbury Overbridge Development Ltd	Application to determine if Prior Approval is required for the Change of Use of office (Class B1) to 17 residential dwellings.	Delegated Refusal	Withdrawn 27.6.18
GREENHAM 17/02459 PINS Ref 3194573	Bridge House, Overbridge Square, Newbury Overbridge Development Ltd	Application to determine if Prior Approval is required for the Change of Use of office (Class B1) to 17 residential dwellings.	Delegated Refusal	Withdrawn 27.6.18
ENBORNE 17/03016 PINS Ref 3195763	Land at Enborne Lakes Enborne Newbury Cherie Bettles	Section 73: Removal of Condition 4: Length of stay of planning permission 08/01535/FUL (New barn for storing agricultural equipment and hay plus accommodation for anglers and walkers).	Delegated Refusal	Allowed 24.7.18
ENBORNE 17/03016 PINS Ref 3195763	Land at Enborne Lakes Enborne Newbury Cherie Bettles	Section 73: Removal of Condition 4: Length of stay of planning permission 08/01535/FUL (New barn for storing agricultural equipment and hay plus accommodation for anglers and walkers).	Delegated Refusal	Costs Refused 24.7.18

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NEWBURY 17/01808/OUTD PINS Ref 3191372	Garden Land at 5 Normay Rise Newbury Mr and Mrs Power	Outline application for erection of dwelling with integral garage. Matters to be considered: Access.	WAP Ctte. Refusal	Allowed 22.5.18
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Application for costs

An application for costs was made by Mr & Mrs W Power against West Berkshire District Council. The application was refused.

Preliminary Matters

The application is in outline form with matters of layout, scale, appearance and landscaping reserved. As such, for the purposes of this appeal only access falls to be determined, and on which the local highway authority has raised no objections.

Subsequent to the planning application being submitted, but prior to the decision being issued correspondence between the two main parties shows that the description of the proposal was amended with reference to the terms 'four bedroom' and 'two storey' being deleted.

During the appeal process Policy HSG1 of the West Berkshire Council Local Plan Saved Policies 2007, referred to in the Council's reasons for refusal, has been superseded by the West Berkshire District Council Housing Site Allocations Development Plan Document (HSA) and Policy C1 thereto. This policy says that there is a presumption in favour of development and redevelopment within the Council's settlement boundaries. The appeal site falls within the Newbury settlement boundary as defined in HAS Policy C1 and the West Berkshire Core Strategy (CS).

Main Issues

The main issues are:

- 1) The proposal's effect on the character and appearance of the surrounding area, with particular regard to the size of the site;
- 2) Whether the proposal would provide for a satisfactory standard of living conditions for the dwelling's future occupiers, with particular regard to external garden space;
- 3) The proposal's effect on the living conditions at No. 5, with particular regard to overlooking; and
- 4) The effect of the proposal on surface water drainage.

Reasons

Character and appearance

The appeal site lies at the junction of Normay Rise and Willowmead Close, with the latter road climbing significantly away from this point. As such, the site's rear garden rises in level up to its common boundary with No. 2 Willowmead Close. It is proposed to sub-divide the plot with severance marked at approximately mid-point along the existing side fence.

A new vehicular access is proposed immediately beyond the proposed post and rail fence which would divide the two demarcated plots. Although an integral garage is provided these are no longer considered as car parking spaces by the Council due to the likelihood that they will not be used for this purpose. The site plan (drawing ref 352/P02) is at this stage only indicative but, in connection with the proposed access, it shows parking and turning space for three cars. The illustrative layout also shows the dwelling's front building line set well within the site and in line with that of No. 2.

The scale and layout of the proposed development does not fall to be determined at this stage and the depicted footprint on the site plan is purely illustrative for the purposes of this application. The Inspector accepted that the rear garden depth would be considerably less than that for the neighbouring dwellings along Willowmead Close but, whilst the proposal would be at odds with that characteristic, the plot's depth as a whole would satisfactorily accommodate a new dwelling and its plot width would be consistent with those along Willowmead Close. The above points are important determinants in this, the primary main issue, and on this basis he found that the proposed infill development would not be cramped and would be appropriate to its contextual setting.

Although residential garden, in urban or suburban areas, is not considered as brownfield or previously developed land (PDL) the development of such is not necessarily precluded providing the proposal satisfies other relevant planning policies and their aims. In this instance the Inspector found that the proposal would satisfy the objectives of Policy ADPP1 of the Council's Core Strategy (CS), although at this stage, in the absence of more specific details, it is not possible to fully assess the proposal's design qualities. That said, given the circumstances he had described, he was satisfied that, visually, the proposal would integrate well within the streetscene.

External garden areas are shown to the front and rear of the proposed dwelling. The site plan indicates that the available amenity space would total 120 sqm, although the Council disputes this calculation, instead indicating that the garden would total some 98 sqm. The Council's Supplementary Planning Document 'Quality Design – West Berkshire: Part 2 'Residential Development' (SPD) provides guidance on garden space for new housing and says that, as a general rule, for a 3 or more bed house, the associated garden should be at least 100 sqm. The Council has raised concerns on this matter but this is only a guideline and the Inspector found that the stated shortfall of 2 sqm would be negligible. Concern has also been raised regarding the garden's north facing orientation, yet this is in common with the various dwellings on the north side of Willowmead Close.

Prior to the submission of the application a tree survey of the site was undertaken. Three existing trees have been identified, all of which the Inspector understood are subject to a tree preservation order (TPO), and are to be retained. Accordingly, appropriate tree protection measures will be necessary in this respect and a condition can be imposed to this effect. It is intended that the existing coniferous hedge behind the garden fence would be cut back slightly, but this is consistent with general maintenance.

On this first main issue, he concluded that the proposal would not be harmful to the character or appearance of the surrounding area, and there would be no material conflict with the aims and requirements of CS Policies ADPP1 and CS14, HSA Policy C1, and design guidance within the Council's SPD, the Newbury Town Design Statement and also the National Planning Policy Framework (the Framework).

Living conditions (future occupiers)

As regards the area of garden itself, the Inspector found that an approximation of just less than the 100 sqm indicator would represent satisfactory provision and on this basis he was satisfied that the proposal would be able to provide adequate external garden area for the benefit of the dwelling's occupiers. The Council has indicated that the existing trees would restrict natural light entry to the garden which, in turn, would affect the garden's usability. However, at his site visit, he noted that only the oak tree to the front of the site would potentially affect light entry into the site and this would only realistically impact on the front curtilage, not the rear garden.

The cherry tree is sited in what would be the dwelling's rear garden, but this specimen is not as tall or imposing as the oak tree and is located close to the boundary with No. 7 Normay Rise. Neither is the maple tree which would remain in No. 5's rear garden. Accordingly, he concluded that the proposal would provide for a satisfactory standard of living conditions for the dwelling's future occupiers and there would be no material conflict with the aims and requirements of CS Policies ADPP1 and CS14, and design guidance within the Council's SPD, the Newbury Town Design Statement and also the Framework.

Living conditions (neighbouring occupiers)

The indicative layout plan would indicate that the dwelling would likely have a north / south dual aspect and, as such, the flank wall of the proposed garage and, behind, the east facing flank of the dwelling itself would face towards the truncated rear garden of No. 5 Normay Rise. The proposed configuration is not unusual and, indeed, it would reflect the resulting relationship with No. 2 beyond the site's common boundary. Given this, only the installation of first floor windows in the dwelling's flank wall could potentially give rise to overlooking of No. 5's rear garden. This, however, is a matter for the dwelling's layout and appearance and is not a consideration at this stage. That said, it would be expected that any such flank wall windows would light either a bathroom or landing, and these could be obscurely or part obscurely glazed, as necessary. Generally, the distance from the proposed dwelling's rear boundary would not represent an unacceptable arrangement, although he acknowledged that any future roof extensions proposed would need careful assessment and he addressed this matter later.

The Inspector concluded that the proposal would not be harmful to the living conditions at No. 5 Normay Rise and there would be no material conflict with CS Policies ADPP1 and CS14 and also relevant advice within the Framework.

Flooding

CS Policy CS16 says the development will only be permitted if it can be demonstrated that, amongst other things, appropriate measures to manage any flood risk can be implemented, although it is indicated that the site lies within Flood Risk Zone 1. Nonetheless, the policy goes on to say that on all development sites surface water should be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).

The Council is concerned that the appellant has not demonstrated that the proposal would not adversely impact on the sustainable drainage qualities of the site, and interested parties have raised this matter as an issue. The Inspector also noted that the Council's Sustainable Drainage team, a consultee, had not provided comments on the proposal by the time the committee report was drawn up.

In view of the sloping topography of the land the issue of drainage would clearly need to be explored and, in accordance the requirements of CS Policy CS16, the Inspector also imposed a condition requiring the submission of surface water drainage details for subsequent approval by the local planning authority.

Other Considerations

Interested parties, in particular, have raised objections that the 'garden suburb' character of the Andover Road area, as set out in the Newbury Town Council Design Statement, would be harmed by the proposal. The Inspector disagreed for the reasons he had already stated. Further, allowing this appeal would not set a precedent for future such proposals as each case has its own particular circumstances and is dealt with on its individual merits and/or resultant impacts. Noise and disturbance from the use of the site would not be an issue as the site is of adequate size to accommodate a single dwelling. Besides, the site is currently garden land and is used in an incidental capacity for the benefit of the occupiers of No. 5. A resident has raised concerns that the property could be used as a House in Multiple Occupation (HMO). This is unfounded but any use outside the parameters of Class C3 (Residential) would be subject to planning control by the Council. Finally, restrictive covenants are not material considerations in the determination of planning applications. If a piece of land is the subject of any such covenant then, if in effect, this would override any grant of planning permission.

Conclusion and Conditions

The local highway authority has raised no objections to the access shown for the proposed new dwelling and matters related thereto. For the above reasons, whilst having had regard to all matters raised, the appeal succeeds.

Subsequent to the decision notice's issue the Council has not suggested any specific conditions to be imposed, although the Inspector did have a list of conditions recommended in the committee report and its update. In the circumstances, he treated these as part of the Council's case and have considered them against the advice in the Planning Practice Guidance, re-wording and consolidating them, as necessary.

Certain pre-commencement conditions are imposed requiring submission and approval of aspects of the development that are not fully described in the application.

In addition to the standard time limitation conditions for outline planning permissions and the subsequent commencement of the approved development, in the interests of certainty he imposed a condition requiring that the development be carried out in accordance with the submitted plans. To ensure a satisfactory form of development a condition is imposed requiring the submission of samples of external materials for subsequent approval by the Council. A condition relating to the dwelling's floor levels in relation to nearby datum points is also included. These would be specifically addressed at the reserved matters stage, at which point a landscaping and planting scheme should be arrived at. Accordingly, a condition is imposed requiring for such. Also, in view of the TPOs at the site he imposed a condition relating to the commissioning of an Arboricultural Method Statement to ensure the protection of the said trees.

In order to ensure that the construction works are carried out appropriately and with minimal disturbance a condition requiring for a Construction Management Plan is imposed. To ensure a satisfactory standard of development a condition is imposed requiring for details of the sustainable disposal of surface water to be submitted to the local planning authority for written approval. A condition is also imposed requiring that

details relating to on-site parking, cycle storage, access and turning space are approved prior to occupation. In this connection conditions are added which require for the provision of appropriate visibility splays at the access point and that the vehicular access to the highway is properly surfaced.

Given the size of the site, the Inspector was satisfied that the final layout arrived at would not hold any significant implications for the living conditions of neighbouring occupiers. However, to enable the Council to have control over any roof extensions that might give rise to overlooking he imposed a condition removing permitted development rights in this particular regard.

Decision

The appeal is allowed and outline planning permission is granted for the erection of a dwelling with integral garage at 5 Normay Rise, Newbury, Berkshire RG14 6RY, in accordance with the terms of the application Ref 17/01808/OUTD, dated 21 June 2017, subject to the conditions set out in the attached Schedule.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of the approval of the last of the reserved matters to be approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of 3 years from the date of this outline permission.
- 3) Approval of the details of layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority before any development is begun.
- 4) The development hereby approved shall be carried out in accordance with the following plans: Drawings Nos 352/E00, 352/P02 and 352/P04.
- 5) No development shall take place until samples of the external materials to be used for the construction of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of both hard and soft landscape works, including hard-surfacing materials and boundary treatments, have been submitted to and approved in writing by the local planning authority. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedule of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and details of the existing trees to be retained, including their spread, girth and species. Development shall be carried out in accordance with the approved details prior to first occupation of the dwelling, or in accordance with a programme agreed with the local planning authority.
- 7) No development shall take place until a full Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the local planning authority. The AMS shall include details of protective fencing (with reference to B.S. 5837:2012), implementation, supervision and monitoring of all temporary tree protection measures and any special construction works within any defined tree protection area. The works shall be implemented in accordance with the approved details.
- 8) No development shall take place until a construction management plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of hours of working and how demolition and construction traffic, vehicular access to the site, parking and manoeuvring, materials storage, wheel washing, and facilities for operatives, will be accommodated during the development. The development shall be carried out in accordance with the approved CMP.
- 9) The dwelling hereby permitted shall not be occupied until details of the parking, turning and access facilities have been submitted to and approved in writing, and fully implemented in accordance with the approved details. The parking, turning and access facilities shall thereafter be retained as such.

10) No development shall take place until visibility splays of 2.4 metres by 43 metres have been provided at the access. The visibility splays shall be kept free of all obstructions to visibility above a height of 0.6 metres above carriageway level.

11) No development shall take place until details of the surfacing arrangements for the vehicular access to the highway have been submitted to and approved in writing by the local planning authority. Such details shall ensure that bonded material is used across the entire width of the access for a distance of 3 metres measured back from the carriageway edge. The surfacing arrangements shall thereafter be constructed in accordance with the approved details.

12) No development shall take place until full details of cycle storage facilities have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these details.

13) No development shall take place until details of both existing and proposed floor levels of the dwelling in relation to nearby datum points have been submitted and approved in writing by the Local planning Authority. The development shall be carried out in accordance with the approved levels.

14) Prior to the commencement of the development hereby permitted, surface water drainage details shall be submitted for approval in writing by the Local Planning Authority. Such details shall include an assessment of the potential for the disposal of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework. The approved drainage scheme shall be implemented prior to the first occupation of the development.

15) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no dormer windows which would otherwise be permitted by Schedule 2, Part 1, Class B of that Order shall be constructed in the roof of the dwelling hereby permitted, without planning permission being granted by the Local Planning Authority

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ENBORNE 17/03016 PINS Ref 3195763	Land at Enborne Lakes Enborne Newbury	Section 73: Removal of Condition 4: Length of stay of planning permission 08/01535/FUL (New barn for storing agricultural equipment and hay plus accommodation for anglers and walkers).	Delegated Refusal	Allowed 24.7.18
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Decision

The appeal is allowed and planning permission is granted for a new barn for storing agricultural equipment and hay plus accommodation for anglers and walkers at Pine View, Unnamed Road from Watery Lane to Enborne, Enborne, Newbury in accordance with the application Ref 17/03016/FUL made on 25 October 2017 without complying with condition No. 4 set out in planning permission Ref 08/01535/FUL granted on 19 December 2008 by the West Berkshire Council, but otherwise subject to the following condition:-

“The development hereby permitted shall begin not later than 3 years from the date of this decision.”

Application for costs

An application for costs was made by Ms Cherie Bettles against West Berkshire Council. This application will be the subject of a separate decision.

Preliminary matters

The appellant has drawn attention to a Court of Appeal decision to highlight an alleged deficiency in the officer report and the Council’s interpretation that a holiday let accommodation is essentially different to a permanent dwelling house (C3). Whilst the judgment determined that such differentiation is a matter of fact and degree, the appellant then provides a copy of an appeal decision where the Inspector appeared unequivocal in his reasoning in that case that a holiday let constitutes a C3 dwelling house. Conversely, the Council also places weight on the Sheila Moore judgment to support its case. It seemed to the Inspector however that each case needs to be determined on the individual facts and this is what he had done in this decision.

The main issue

The main issue in this appeal is whether the removal of the occupancy condition would represent sustainable development, having particular regard to its location and to relevant local and national planning policies.

Reasons

The appeal property is located in a countryside setting and outside any defined settlement. A number of scattered dwellings lie in close proximity with a public house just to the south-west. The large market town of Newbury is some three miles to the east. The appeal building is set within an existing agricultural complex of buildings and two fishing lakes. From the evidence, the buildings may no longer form part of the agricultural enterprise and are now used for hobby purposes.

The appeal property comprises a building that was granted for the accommodation of anglers and walkers. Section 75(2) of the Town and Country Planning Act 1990 provides that ‘Where planning permission is granted for the erection of a building, the grant of planning permission may specify the purposes for which the building may be used’. The property has all the hallmarks of a detached dwelling house within the meaning of Class C3 and it is the appeal condition as opposed to the description of development contained in the original

planning permission that defines the way in which the building in this case can be used. It is noted that the building may be occupied on an all-year-round basis.

Since the original planning permission was granted, the Council has adopted the West Berkshire Core Strategy (the Core Strategy). The Council explains that saved policy ENV16 of the West Berkshire District Local Plan (the Local Plan) continues to lend support for proposals aligned to farm diversification whilst policy CS10 of the Core Strategy by also supporting rural diversification schemes maintains that proposals that seek the loss of such facilities must demonstrate that they do not negatively impact on the local economy and the vitality and viability of the surrounding rural area.

Following on from the above, the Council considers that the current proposal should be assessed against the housing policies of the Core Strategy, namely policy ADPP1 and CS1. In this regard, the Council opines that the removal of the occupancy condition would result in a net additional open market dwelling that does not lie within or adjacent to an existing defined settlement and nor would it be in a location identified for a dwelling under the bullet points of policy CS1. Furthermore, the Housing Site Allocations DPD (DPD) explains that there would be a presumption against housing in the *countryside* (the Inspector's emphasis) unless required for certain defined categories, none of which would apply in this case. The Council also argues that the proposal would not qualify under the terms of policy C4 of the DPD as the building cannot be described as redundant.

Notwithstanding, this interpretation is dependent on whether the removal of the condition would result in the provision of an additional open market dwelling. In *Moore* the property in question was terraced and could sleep up to 20 people. Sullivan LJ considered that the property was used by large groups who occupied it and came together largely as a result of their shared interest (yoga, cycling etc.) but they did not occupy it as "single households" or "family groups". For this reason it was held that a material change of use from C3 had occurred.

However, the use of Pine View is at the other end of the spectrum in that the appeal building containing 3 bedrooms and all of the facilities that one would normally expect of a single dwelling house would encourage its use as a building accommodating families or small groups with a close connection to each other. From the evidence, the property is mainly rented for week long holidays accommodating probably no more than six people. Therefore the use falls within limbs (a) and/or (c) of C3 in the terms set out by Sullivan LJ in *Moore*. The Inspector did not therefore consider that there would be any breach of Core Strategy policies CS1 and ADPP1 or with DPD policies C1 and C4.

That said, it is the condition that limits the use of Pine View to tourist accommodation and its removal in his view hinges on whether the condition would continue to serve a useful planning purpose. In this regard it is relevant to examine whether the loss of this accommodation limited to holiday occupation would cause harm to the rural economy.

Policy CS10 of the Core Strategy together with policy ENV16 of the Local Plan are positively worded policies that seek to encourage the diversification of the rural economy, including supporting small and medium sized enterprises. These policies are broadly consistent with section 3 of the National Planning Policy Framework (the Framework) that seeks to promote economic growth in rural areas. As the Inspector alluded to in appeal reference APP/D305/Q/14/2222976, there is nothing in the Framework that specifically states that any holiday let accommodation must be retained in perpetuity and neither do policies CS10 or ENV16. Clearly, the effect of a proposal on the rural economy is a material planning consideration and it is relevant to examine whether the loss of the accommodation would result in a serious shortage of accommodation within the local area.

The appellant acknowledges that the present holiday let does provide some benefit to the

rural economy of West Berkshire but that the Council has overemphasised the contribution that this holiday accommodation provides in the local context. The Council points to the fact that this area of West Berkshire is noted for its coarse fishing, which respects the character of the countryside in line with paragraph 28 of the Framework. It is argued that the appellant has not made full use of marketing opportunities centred around the angling fraternity, which it is claimed might account for the relatively modest letting rates experienced by the owner of the property. Moreover, the Council's evidence suggests that there does not appear to be an oversupply of self-catering accommodation within the district.

The appellant's figures reveal that the income generated by letting the property has declined. In addition and from what the Inspector saw during his site visit, the farming enterprise has also declined and is more akin to that of a hobby with many tractors of a vintage pedigree being housed and serviced within the former agricultural building. The Council does not dispute the appellant's arguments that the income for 2017 amounted to just over £3100. This degree of marginality indicates that the property is unlikely to become profitable as a single business enterprise particularly now that the original use as part of the farming enterprise no longer applies. Whilst the Inspector acknowledged the Council's view that a more robust marketing exercise might generate additional enquiries leading to an increase in holiday lets, it is unlikely that the property will become profitable as a single enterprise.

Consequently, he was satisfied that the lifting of the condition would not seriously prejudice Core Strategy policy CS10 in terms of having a negative impact upon the local rural economy. Neither would it unacceptably conflict with paragraph 28 of the Framework.

Given that the condition no longer serves a useful planning purpose in the context of its level of support to the rural economy, the question remains whether it is still necessary in the context of the policies of the Framework. Although neither party relies on the Framework, current policy is set out in paragraph 55 of the Framework, which restricts the development of new isolated dwellings and places an emphasis on sustainable development within rural areas. For the purposes of the Framework, sustainable development has three aspects: the environmental; the economic; and the social.

Whilst the appeal property is outside of a definable settlement, it is not a new dwelling. As stated above the appeal property affords facilities required to meet the day-to-day needs of a single dwelling house. The property moreover has the characteristics of a dwelling albeit subject to the disputed condition.

Thus taking firstly the environmental dimension, the appeal property is an existing building of a residential character. No changes, alterations or extensions are proposed as part of this appeal. In terms of the use of raw materials the proposal would be likely to have a negligible environmental effect. The appeal property is also part of the established character of the area, being one of a number of sporadic dwellings in the wider area. Removal of the disputed condition would not change the character or appearance of the dwelling to any appreciable degree, and thus in these terms it would not have a harmful environmental effect.

The site is accessed by a narrow unlit road with no separate footway. However, it is not far from the appeal property to the A343, the main road into Newbury, the nearest settlement with a range of services, the edge of which is around 3 miles from the appeal site. For all practical purposes the majority of journeys to and from the appeal property would be made by car. However, this would pertain to both short-term and permanent occupants of the appeal property. Both short-term and permanent residents would be likely to visit Newbury for shopping and other services. The key difference would be the likelihood of permanent residents commuting on a daily basis for work and potentially school. However, short-term occupiers could travel significant distances to arrive at the appeal property, and once there

use it as a base for exploring the wider area.

Thus, whilst there would be undoubted differences in the transport patterns of short-term and permanent occupants of the appeal property, the Inspector had no substantive evidence before him to suggest that there would be a material difference in emissions created by vehicle trips related to these two uses. Consequently he did not consider that use of the appeal property as a permanent dwelling would be of more significant harm in this regard than its use as a short-term holiday let.

There would be a difference in the economic effects of short-term and permanent residents of the scheme. However, given the modest scale of the property he was not persuaded that, over time, the economic effects would be of a difference that would be material. Indeed, given the potential for tourists to travel more widely through the surrounding area using the bungalow as a base, it is likely that some of the resulting economic effects may be more dispersed than those of a permanent household who would inevitably use local facilities and services on a more regular basis. Thus removal of the condition would be unlikely to lead to any discernible economic harm in this regard.

Whilst noting from the above that the Council's development plan seeks to boost tourism in the area, he found that the continued use of the appeal property for short-term holiday purposes would only make a limited contribution to this objective. Consequently, this is a matter that attracts only limited weight in the overall planning balance.

By removing the condition, this would have modest, although clear social benefits through the creation of a permanent dwelling. While tempered to some degree by its location thus necessitating the use of a private car, the removal of the condition would, however, help to meet the national planning objective of boosting housing supply, albeit to a modest degree. It is clear that in this social aspect of sustainable development the benefits, whilst limited, would weigh in the favour of the property's use as a permanent dwelling.

Accordingly the Inspector concluded that in terms of the Framework, the removal of the disputed condition would be likely to have marginal benefit in terms of the three dimensions of sustainable development. Moreover, as the appeal property is an existing dwelling, with an established residential character, the removal of the condition would not undermine the objectives of paragraph 17 of the Framework, insofar as they relate to the role and character of different areas.

Consequently, having regard to the three dimensions of sustainable development he considered that the use of the property as a permanent dwelling would be sustainable.

No conditions have been suggested by the Council. The Inspector attached the usual time limit condition. From his perusal of conditions attached to the original permission, he did not believe that these remain relevant to the development undertaken or from what he gleaned during his site visit.

Conclusion

In light of the above reasons and having regard to all other matters raised, the Inspector concluded that the appeal should succeed and the relevant condition No. 4 no longer required to be complied with.

Costs Decision

The application for an award of costs is refused.

Reasons

The case for the appellant

The applicant believes firstly that the Council behaved unreasonably on the basis that it acted contrary to, or not followed well-established case law. Reference is made to an earlier e-mail exchange with the Council, which provided a confused response in relation to the authorised use of the property, Pine View. The applicant followed this up by citing case law that suggested that an interpretation based on the property falling within Class C3 was appropriate. Subsequently, the Council confirmed that the Council accepted that the property had an authorised use as holiday accommodation although it remained silent on the matter of whether it fell within a C3 use.

The officer report that recommended the refusal of planning permission for the appeal proposal sought to clarify the issue of whether the appeal property could be classified as a C3 or C1 use class. This further confused the issue and the applicant believes that this also amounts to unreasonable behaviour.

The applicant proceeds to suggest a second ground for her claim of unreasonable behaviour in that having conceded that the property could fall under Class C3, it then applied planning policies applicable to new housing development. The applicant argues that the planning application was assessed against the wrong planning policies and that planning permission ought to have been granted had the confusion surrounding which Use Class applied not arisen.

The case for the Council

The Council counters the first claim on the basis that the email exchange did not maintain its original position that the authorised use was as a D2 use and nor did it conclude that the removal of the condition would result in a C1 use. In relation to the second ground, the Council believes that it adopted a reasonable position to apply housing policies to the application to remove Condition 4 as any permission would result in the creation of an open market dwelling. In applying the policies of the development plan, it was also considered necessary to assess the application against policy CS10 of the Council's Core Strategy and policy ENV16 of the Saved Local Plan.

Reasons

The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can be awarded against a party who has behaved unreasonably and thereby caused the costs applicant to incur unnecessary expense in the appeal process.

For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.

The pre-application discussions between the applicant and the Council cannot be taken into account as they do not relate to appeal proceedings. These are discussions falling outside the scope of this Costs application but in any event serve only to provide an in-principle view by the Council.

Once submitted it is of course appropriate for the Council to apply its development plan policies. The development plan must be read as a whole. Whilst the judgments in *Gravesham Borough Council v SoS for the Environment* and *Sheila Moore v SoS CLG* and

Suffolk Coastal District Council were cited by the parties to support their respective views, the question as to whether a holiday let constitutes a C3 dwelling house needs to be determined on the individual facts. The facts were very clearly set out and on balance the Inspector was satisfied that it was appropriate to consider the application and the subsequent appeal in this way.

It seems to me therefore that the Council was entitled to consider the application against its housing policies in the first instance; however it is clear that the main thrust in their assessment focussed on its economic development policies. The Inspector said this as the planning officer thoroughly considered the effects on the Rural Economy and also applied a correct planning balance towards the end of his/her report in which the focus was very much aligned to an assessment against policies CS10 and ENV16. Indeed, the only failing if there is one is that the officer might have needed to proceed to also assess the application against the Framework, particularly given the location of the property in the countryside. The application of sustainable development principles applies to all new development.

Conclusion

Therefore, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

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