

# **WESTERN AREA PLANNING COMMITTEE**

## **MINUTES OF THE MEETING HELD ON WEDNESDAY, 8 JUNE 2022**

**Councillors Present:** Clive Hooker (Chairman), Tony Vickers (Vice-Chairman), Adrian Abbs, Phil Barnett, Jeff Cant, Carolyne Culver, Claire Rowles, James Cole (Substitute) (In place of Dennis Benneyworth) and Lynne Doherty (Substitute) (In place of Howard Woollaston)

**Also Present:** Sharon Armour (Solicitor), Tom Dunn, Paul Goddard (Team Leader - Highways Development Control), Scott Houston, Cheyanne Kirby (Planning Officer), Masie Masiwa (Senior Planning Officer), Gordon Oliver (Principal Policy Officer) and Simon Till (Principal Planning Officer (Team Leader))

**Apologies for inability to attend the meeting:** Councillor Dennis Benneyworth and Councillor Howard Woollaston

### **PART I**

#### **3. Minutes**

The Minutes of the meeting held on 16 March 2022 were approved as a true and correct record and signed by the Chairman subject to the following amendments:

- Page 9, paragraph 6 – delete unnecessary ‘was’
- Page 7, paragraph 10 – the minutes should have indicated that the nursery facility could not be used

The Minutes of the meeting held on 6 April 2022 were approved as a true and correct record and signed by the Chairman, subject to the following amendment:

- Condition 4 – it had been agreed that the solar panels should have a brown hue

The Minutes of the meeting held on 10 May 2022 were approved as a true and correct record and signed by the Chairman.

#### **4. Declarations of Interest**

Councillors Phil Barnett and Tony Vickers declared an interest in Agenda Items 4(1), 4(2) and 4(3), but reported that, as their interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

The Chairman declared an interest in Agenda Item 4(3), 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.

#### **5. Schedule of Planning Applications**

##### **(1) Application No. and Parish: 22/00493/FUL, Sterling Gardens, Hectors Way, Newbury**

*(Councillors Phil Barnett and Tony Vickers declared a personal interest in Agenda Item 4(1) by virtue of the fact that they were Members of Newbury Town Council and its Planning and Highways Committee. They had been present when the application was*

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*discussed, but would consider the application afresh. As their interest was personal and not prejudicial or a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.)*

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 22/00493/FUL in respect of a new link road connecting Hectors Way to Kings Road through the Sterling Estate Development with associated retaining walls.
2. Mr Masie Masiwa, Senior Planning Officer, introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion the report detailed that the proposal was acceptable in planning terms and officers recommended that the Service Director – Development and Regulation be authorised to grant planning permission subject to the conditions outlined in the main and update reports and the completion of a Section 106 legal agreement, or if the legal agreement was not completed by 9<sup>th</sup> September 2022, to delegate to the Service Director - Development and Regulation to refuse planning permission, for the reasons set out in Section 8.4 of the report, or to extend the period for completion if it was considered expedient to do so.
3. The Chairman asked Mr Paul Goddard, Team Leader (Highways Development Control), if he had any observations relating to the application. Mr Goddard noted that the link road scheme had a long history. It was covered by saved policies from the 2007 Local Plan (Trans 1A). The first part of the link road had been constructed 25 years ago, and development of the site had always been reliant upon construction of the link road. The scheme would bring significant benefits including:
  - Reduced traffic on Kings Road and Mill Lane, turning them into quieter residential streets;
  - Improved pedestrian and cycle routes through the site, connecting the racecourse development to the town centre;
  - Reduced traffic on the A339 / B3421 / Bear Lane roundabout, since traffic would be able to turn right out of Sainsbury's;
  - Economic benefits from improved links from the Hambridge Road commercial area to the A339 and onwards to the A34.
4. The principle, design and layout of the Link road scheme had been agreed in a previous application in 2015. Members were encouraged to focus on the proposed changes, as set out on page 3 of the update report, namely:
  - Reduction in width of the east-west section to 6.1m - this reduced the size and extent of the associated retaining wall and it was the same width as the proposed north-south section and Hambridge Road
  - Deletion of the footway on the southern side to provide an infiltration trench and connect to the surrounding drainage network. A 2m footway would be retained on the north side with crossing points. A green verge would be provided around the trench.
  - The proposed road level had been raised by 1m in places. This would reduce the amount of spoil to be removed from the site and would remove the gradient on the north-south section. The change would require provision of a retaining wall.
  - Deletion of the proposed traffic signals adjacent to the London Apprentice due to the prohibitive cost of utilities diversion works (estimated at £1 million). Traffic modelling showed little difference in the performance of the signalised junction and the uncontrolled crossroads. The zebra crossing outside the London

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Apprentice would be retained and other crossings would be provided. Also, a new footway would be provided on the south-west corner of the junction.

5. Mr Goddard noted that this had been a difficult site to work with due to the contamination and site constraints. There had been little choice about the changes made - retaining the original levels would require reconstruction of the development, and neither the developer nor the Council were able to fund the increased cost of the signalised junction. However key elements would be retained, including: widening of Boundary Road and its rail bridge, provision of the new footway on the eastern side, and the zebra crossing. Following completion of the Link road, the Council would consider measures on Kings Road and Mill Lane in consultation with residents. Loss of parking had been raised as a concern by residents – this would be considered as part of a parallel planning application for the building.
6. In accordance with the Council's Constitution, Nigel Foot, Newbury Town Council, and Nicola Blythe, objector, addressed the Committee on this application.

### **Town Council Representation**

7. Mr Nigel Foot in addressing the Committee raised the following points:
  - At the meeting on 28 March 2022, the Town Council's Planning and Highways Committee had indicated that they wished this application to be considered by the Western Area Planning Committee.
  - The Planning and Highways Committee had raised concerns about parking, highways and flooding issues, and the fact that part of the original justification for the application was the closure of Kings Road to through traffic, and this should be considered.
  - The Town Council had concerns for residents of Kings Road, particularly at the Boundary Road end. They had been forced to close their windows for a year during decontamination works and it was felt that every effort should be made to address their concerns.

### **Member Questions to the Town Council**

8. Members asked what the Town Council considered should be done to respond to residents' concerns. Mr Foot highlighted the need to improve traffic flow and expressed disappointment that the traffic signals had been deleted from the proposal. Road safety was a primary concern and signals would have helped to stop traffic. HGV traffic passing close to houses was also highlighted as a concern. In addition, drainage and removal of surface water during torrential downpours was considered to be an issue, since the site was in a dip.
9. Mr Foot was asked if the Town Council had any proposals for pedestrian crossings. No suggestions were offered - the Town Council wanted this to be considered by Western Area Planning Committee in order to benefit from Highway Officers suggestions.

### **Objector Representation**

10. Ms Blythe in addressing the Committee raised the following points:

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- Securing a good standard of amenity for existing and future occupants was a core planning principle of the framework, but this did not seem to apply to residents of 132 - 148 Kings Road.
- Residents of Gordon Road had been given substantial consideration (i.e. provision of acoustic barrier with no adverse impact on daylight / sunlight amenity). What similar arrangements would be provided for Kings Road residents?
- Due to the Sterling development being at least 1m higher than originally planned, there were at least six apartments with clear lines of vision into the bedrooms, living rooms and gardens of Kings Road, with distances of 15m, which was well below the 21m standard. This was disturbing and intrusive and did not secure a good standard of amenity for existing occupants.
- Environmental Health Officers considered the impact on amenity to be minimal and would not have a materially harmful impact on Kings Road residents. However, the same officer considered that proposed glazing, balcony balustrades and fences would protect future occupiers of the new flats from noise from the Link road. In addition, the report stated that the proposed acoustic barrier would be effective in protecting the existing residential amenity on Gordon Road. This was considered to be inconsistent, with the needs of Kings Road residents ignored.
- The purpose of the Link road was to reduce through traffic on Kings Road and Mill Lane, which were unsuitable for the volumes and types of traffic. The Link road would allow these to be made into quieter residential streets, apart from the section between 132 - 148 Kings Road where residents' health and safety would be affected.
- In summary, residents would be affected by: a loss of permit parking spaces (without consultation or alternative provision); use of the road by HGVs (there was an existing restriction on Mill Lane); increased numbers of pedestrians, cyclists and children sharing space on narrow footways; safety concerns about the crossings at the Kings Road / Boundary Road junction due to the proposed deletion of the traffic signals; a startling invasion of privacy, because the development bore no relation to the plans; and an absence of parity of consideration and provision for residents of Kings Road and Gordon Road.

### **Member Questions to the Objector**

11. Members noted that Speen residents had been sent letters inviting them to claim compensation for excess noise related to the Newbury bypass and asked if this had been done for the Link road scheme. Ms Blythe confirmed that a firm had been in touch a few years ago.
12. There was a question about parking and the number of vehicles affected. It was noted that there had been very little communication on this matter. Ms Blythe did not have information on vehicle numbers.
13. Members asked, if the closure of Kings Road to through traffic had been included in the proposal, would it have made a difference to the objectors, and would it have addressed the parking issue? Ms Blythe confirmed that it would have made a difference – she highlighted the narrow width of the footways, which forced people to step into the carriageway to let others pass. She also agreed that it would have addressed the parking issue.

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14. Members noted that residents of 132 - 148 Kings Road would need to cross the road to access proposed additional parking spaces and asked if the objector would advocate the inclusion of an additional crossing. Ms Blythe agreed that there would be a need for a crossing, since it was already difficult to cross with just one-way traffic. She highlighted that the planning notices had all been posted on the south side of the road.
15. Clarification was sought as to the discrepancies between the plans and the as-built development. Ms Blythe confirmed that the windows of the flats had been shown as being further round or at an angle to her windows rather than directly opposite. Residents would have highlighted this as an issue at the planning stage.
16. Members asked about the frequency of roadworks in the area in the last 12 months. Ms Blythe did not know this, but confirmed that there had been a lot of roadworks.
17. Clarification was sought as to the best location for an additional pedestrian crossing. It was confirmed that this would be a matter for consultation with all affected residents.
18. Members asked for views about the proposed acoustic barrier. Ms Blythe highlighted the disparity in the treatment of residents of Gordon Road, whose concerns had been addressed, and those of Kings Road who would be impacted more severely, but had not been consulted.

### **Ward Member Representation**

19. Councillor Phil Barnett in addressing the Committee raised the following points:
  - Points had been made about traffic on Kings Road - those who attended the site visit had experienced difficulties in crossing the road with existing one-way traffic restrictions.
  - Vehicle movements between the town centre and areas to the east, including the Hambridge Road Industrial Estate, had been an issue for residents of Mill Lane, Kings Road, Boundary Road and Queens Road for many years. Conversion of commercial / industrial units to flats had exacerbated the issue.
  - The Link road could help to reduce HGVs and speeding vehicles on Mill Lane, Boundary Road and Queens Road, where 20 mph speed limits were rarely observed. Quality of life for those residents would be improved.
  - Gordon Road residents would also benefit from the scheme.
  - The impact on residents of 132 - 148 Kings Road was the main issue.
  - It was also important to consider the possibility of Kings Road becoming a cul-de-sac and this should be addressed through a condition.
  - A significant amount of parking on Kings Road was already covered by a residents' parking permit scheme, but some parking had no restrictions – these spaces should be brought into the permit scheme.
  - The Kings Road / Hambridge Road / Boundary Road crossroads was a major concern that needed to be addressed, since it would be difficult for traffic turning right out of Boundary Road North and South, particularly at peak times. This could be addressed using staggered traffic signals or additional signal-controlled crossings.

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- He asked Members to consider those residents who would be affected most by the proposed scheme in terms of traffic, noise and parking.

### **Member Questions to the Ward Member**

20. Members asked about the locations of additional crossings. Councillor Barnett observed that the London Apprentice crossing was already well used and he felt that this should remain. He also suggested that there should be a set of staggered lights away from the junction to help traffic turning out of Boundary Road across the two-way traffic. In addition, he reiterated the need for Kings Road to be turned into a cul-de-sac and for displaced parking for 20 residents to be reprovided, with appropriate crossing facilities to allow residents to access the new parking location.
21. Councillor Barnett was asked for his views on what the solution to the parking issues might be. He highlighted that there were 12 spaces with no parking restrictions on Kings Road opposite Sainsbury's, which could be included in the permit scheme. However, he also advocated securing additional parking within the new development.

### **Member Questions to Officers**

22. Members asked if it had been agreed for parking to be provided within the new development. Officers confirmed that it had not, but it was the Council's aim that displaced parking be accommodated within the proposed development site. This matter had been considered in the original planning application from 2015, and an informative had been attached to the permission. It was suggested that a condition could be attached to the permission for a proposed amendment to the building. This application was currently being considered. Unfortunately, the red line did not allow this to be considered as part of the Link road application.
23. Officers were asked about difficulties in providing a safe crossing for north-south movements on Kings Road. It was noted that there would be a new footway to the north of the development and a piece of scrubland could provide a suitable landing point for a crossing. Officers confirmed that a crossing had been considered at this point, but there was not sufficient visibility on the short section of road between the two junctions. The existing zebra crossing to the east of Boundary Road would be retained and dropped kerbs would be provided on the Boundary Road arms of the junction. It was suggested that dropped kerbs with tactile paving could be provided on Kings Road to the west of the junction. It was suggested that pedestrian flows would not be sufficient to justify a controlled crossing at this location, even if one could be provided.
24. Members asked about what traffic modelling had been done to estimate the number of right-turn movements from the northern section of Boundary Road - currently traffic did not have to check for vehicles approaching from the west when making this manoeuvre. It was explained that the sight lines met design standards. Junction modelling had shown that there was little difference in the performance of the signal-controlled crossroads and the uncontrolled junction. It was noted that there would be a reduction in traffic from Mill Lane as a result of the Link road scheme.
25. Members noted that the northern arm of Boundary Road would be narrowed and asked if this was for safety reasons. Officers confirmed that this was the case - the road could be narrowed from two lanes to one due to the reduced traffic flows. This would help to improve visibility and would provide a safer crossing for pedestrians.

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26. Members asked if other options had been considered for the Kings Road / Boundary Road junction. Officers stated that the current proposal was the only option that could be delivered with the available funding.
27. It was noted that turning out of Boundary Road would become more difficult with two-way traffic on Kings Road and officers were asked if a mini-roundabout could be considered for this junction. Officers were also asked if the closure on Kings Road could be near the location of the mini-roundabout shown on the plans. Officers explained that four-arm mini-roundabouts did not work well, since drivers struggled to work out who had right of way and there would also be visibility issues – mini-roundabouts were considered more appropriate for three-arm junctions. It was confirmed that the Council intended to make Kings Road a cul-de-sac to prevent it from becoming a 'rat run', and residents would be consulted on any improvements.
28. Members asked about pedestrian access to Sainsbury's from the new flats. It was explained that dropped kerbs would be provided on the north-south section of the Link road. This would provide access the footway on the northern side of the Link road or the existing route via Kings Road. At the western end, pedestrians would use the existing crossing at the Kings Road junction. It was noted that dropped kerbs were not present at the Sainsbury's access road roundabout, since there was currently no crossing demand at this location, but officers undertook to look at this.
29. Officers were asked about the differences between mitigations proposed for residents of Gordon Road and Kings Road. It was explained that mitigations had been approved as part of the 2015 planning permission, which could still be implemented. No additional measures were proposed as part of the current application. At the time of the previous application, the Committee considered, on balance, that the impact on the amenity of Kings Road residents would be acceptable. Continuous noise assessments were carried out at five locations in 2018. These showed more significant noise at Gordon Road in terms of existing and proposed levels.
30. Members asked if the 2018 surveys were still considered valid. It was confirmed that the Environmental Health Officers were happy with the surveys. A condition of the original planning permission had required that surveys be carried out and mitigations be identified prior to occupation.
31. Officers were asked about signage to be provided on the A339 at the Burger King and Sainsbury's roundabouts. It was explained that this had not yet been considered, but would be in due course.
32. Members highlighted that Boundary Road north was heavily used by Thames Valley Police.
33. Members asked if the issues with direct line of sight between rooms in the new and existing properties was as a result of the new buildings being constructed on a different alignment to that agreed in the 2015 permission. It was explained that the new building had a similar footprint and orientation to the planning permission. However, in 2020 planning permission was granted for changes to the appearance of the building, including removal of cladding in response to the Grenfell disaster. However, it did not change the relationship between the new and existing buildings. Also, amendments were made during construction, including changes to the basement floor height of around 1m. The height of each subsequent floor had been reduced by around 7.5cm to compensate for the change to the basement level, so the relationship between the buildings had not changed in any significant manner.

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Officers confirmed that the current planning application related to the road layout and so the relationships between buildings were not relevant.

34. A question was asked about the extent of the area to be adopted as highway. Officers confirmed that all of the road would be adopted and there would be no 'ransom strip'.
35. Officers were asked about details of local HGV restrictions. It was explained that there was an existing weight restriction on Mill Lane, which routed lorries via the A339 and A4 to access the Hambridge Road Industrial Estate. The Link road would provide more direct access.
36. A further question was asked about the effect of proposed reductions in carriageway widths on HGV access. Officers confirmed that the layout had been checked to ensure that it could accommodate the largest vehicles.
37. Members asked about the proposed location and height of the acoustic barrier. It was confirmed that this would be located at the bottom of the embankment and would be 2m high. Members asked if the proposed location was correct. Officers indicated that the location had been determined by the noise assessment report. The Environmental Health Officer had reviewed the recommendation and had agreed that the location and design were appropriate to protect the amenity of the Gordon Road residents.
38. The Chairman noted that on the site visit, there had been a lot of discussion about the topography of the site and the retaining wall, but Members felt that their concerns had been addressed.

### **Debate**

39. Councillor Adrian Abbs opened the debate. He indicated that he was opposed to the proposed scheme due to its impacts on local residents. He had hoped that these impacts could be mitigated, but nothing had been proposed. He was shocked by the removal of the traffic signals at the Kings Road / Boundary Road junction, and felt that there would be safety issues for emergency vehicles emerging from the northern arm. He felt that there was a need to provide safe crossings, and zebra crossings would be easier to see than dropped kerbs. He did not see how enough amendments could be incorporated to make the scheme safe and so he expressed a preference for the decision to be deferred.
40. Councillor Tony Vickers indicated that he was keen to see the Link road opened. He acknowledged that it was not an ideal solution, but the decision on the line of the road and its relationship to adjacent buildings was not part of this application, which focused on the detail of the design. He noted that a lot of public money had gone into the scheme and the Council was keen to see the road opened with minimal delay, due to concerns about construction inflation. He suggested that there were two options:
  - 1) to ask the Local Enterprise Partnership for additional funding for the signal-controlled crossroads, which might not be forthcoming; or
  - 2) to accept officers' recommendation

He noted the weaknesses of current planning law, but hoped that the scheme benefits could be realised quickly. He suggested that an experimental traffic order could be introduced on Kings Road on the day that the Link road opened. He also hoped that negotiations could be concluded with the applicant to secure parking to



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replace the spaces displaced from Kings Road. He indicated that he was not prepared to refuse or defer the application.

41. Councillor Phil Barnett noted that the Link road would deliver significant benefits, including for cycleways. He noted that some residents would benefit from the scheme and benefits had already been realised from the introduction of electric trains. However, he accepted that some residents would be adversely affected, particularly those living at 132 - 148 Kings Road. He stressed that as elected Members, they had to consider the wider impacts. He indicated that he had concerns about traffic movements at the Kings Road / Boundary Road junction. Overall, he was unable to support the application in its current form and was inclined to agree with Councillor Abbs that it should be deferred to allow further work to be undertaken to address Members' concerns.
42. Councillor Carlyne Culver felt it would be difficult to reject the application if that would cause access difficulties for the new flats. However, she suggested that approval should be subject to additional conditions related to closing Kings Road to through traffic and addressing concerns related to the mini-roundabout. She did not understand why the cost of the signal-controlled junction had risen to £1 million. She also suggested that there should be a condition related to improvement of access to Sainsbury's. If these could not be conditioned, and if they could not be delivered at the same time as the Link road scheme, then she was inclined to support a deferral. She noted that the development had been approved in 2015, but an agreement on accommodating displaced parking had still not been concluded. This did not give confidence that the provision of a cul-de-sac would be delivered quickly enough.
43. Councillor Lynne Doherty stressed that Members should only consider matters covered by the current application. She noted that the main change from previous proposals was the omission of traffic signals on the Kings Road / Boundary Road junction. However, traffic modelling showed that there would be little difference in the performance of the junction, which had operated safely for many years. She also highlighted the fact that the existing zebra crossing would be retained at the London Apprentice. As such, she was minded to support the application. However, she was concerned about the impact on residents of Kings Road. In addition to securing parking within the new development, she highlighted the opportunity to incorporate additional spaces within the residents permit scheme. She also supported the need to turn Kings Road into a cul-de-sac to prevent this from becoming a rat-run.
44. Councillor James Cole indicated that he was minded to support a deferral unless conditions could be agreed in relation to the creation of a cul-de-sac on Kings Road and creation of safe walking routes.
45. Councillor Claire Rowles noted that the principle of the Link road had been agreed under a previous application. She recognised that there would be clear benefits arising from the scheme, but she had concerns about the loss of the traffic signals. She hoped that conditions could be agreed to allow the scheme to be approved.
46. Councillor Jeff Cant suggested that Members should trust that officers had looked at all available options and should consider whether there were any significant or obvious flaws. He had not seen or heard anything to lead him to believe that this was the case, nor that there were grounds for refusal. He highlighted the 167 flats that were under construction - these would be adversely affected by any delay. He acknowledged that the Link road would be uncomfortable for a number of residents and was sympathetic towards them, but on balance he was inclined to support the application.

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47. Councillor Abbs indicated that he was minded to defer the application because he did not think it likely that conditions could be agreed at the meeting. He advocated inclusion of additional zebra crossings to the north, south, east and west of the site, across Boundary Road to the north of Kings Road, and also at Sainsbury's. He expressed concern that modelling was undertaken with traffic signals included, and that they had subsequently been deleted from the scheme.
48. The Chairman acknowledged that it was a difficult and complex application and asked for a list of possible conditions.
49. Councillor Abbs listed these as follows:
  - Replacement of parking for displaced residents.
  - A zebra crossing at the middle of the north-south link.
  - A zebra crossing to the north of the development.
  - Noise mitigation for affected residents, including relocation of the noise barrier to the top of the embankment.
50. Councillor Vickers indicated that he would like to see the traffic signals as a pre-occupation condition to give additional time to find the necessary funding. However, if that could not be secured, then he indicated that he would support the approach advocated by Councillor Abbs.
51. Councillor Culver proposed the following conditions:
  - Kings Road to become a cul-de-sac concurrent with the opening of the Link road.
  - Construction of a new crossing to Sainsbury's.
  - Alternative parking provision to be made available for residents of 132-148 Kings Road prior to that section of Kings Road opening to two-way traffic.
52. Councillor Doherty proposed to accept Officer's recommendation and grant planning permission subject to the conditions listed in the main report and update report. She did not feel that the traffic signals should be a condition, since the cost was prohibitive and the traffic modelling did not indicate that this was needed. She agreed that there should be conditions relating to additional zebra crossings, alternative provision of displaced parking and the closure of Kings Road to through traffic. She felt that if the traffic signals were included as a condition, then it could prevent access to the flats, since funding would be unlikely to be secured. The proposal was seconded by Councillor Cant.
53. The Chairman invited officers to collate the additional conditions that Members had requested. Officers summarised these as follows:
  - Pedestrian access to Sainsbury's. (It was noted that this was outside the red line of the current planning application, but could be considered separately by Highways outside the planning process.)
  - Closure of Kings Road to through traffic to be timed to coincide with the opening of the Link road. (Again, it was noted that these works would be substantially outside of the red line for the planning application, but Highways had advised that they would consider this separately in consultation with residents. It was suggested that this could be covered by an informative.)
  - Provision of a mini-roundabout at the Kings Road / Hectors Way junction.

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- Provision of additional zebra crossings. (It was noted that crossings would need to comply with Department for Transport criteria. Officers were unable to confirm at the meeting whether the proposed crossings would satisfy these criteria. Therefore, it was proposed that these be addressed by a set of Informatives.)
  - Provision of alternative parking for that displaced by the Link road scheme. (It was noted that officers had been seeking to agree the parking with the developer for around eight years, but the condition related to the existing planning permission had not yet been discharged. It was suggested that a new condition could be imposed on the parallel planning application for non-material changes to the building where the parking would be located.)
  - Relocation of the acoustic boundary to the top of the embankment. (A condition could be applied to require submission of a plan that showed the relocated acoustic boundary. It was noted that the Environmental Health Officer had undertaken a thorough assessment and the proposed location had been challenged by Highways, but the Environmental Health Officer had confirmed that this was the optimal location for preserving the amenity of affected properties. Nevertheless, it was noted that the Committee could choose to override this with a revised condition.)
  - Councillor Vickers had sought the reinstatement of the traffic signal-controlled junction at the Kings Road / Boundary Road junction, but Councillor Doherty did not wish this to be included as part of her proposal.
  - Agreement of the parking allocation prior to the opening of the two-way section of Kings Road. (It was noted that this would be dealt with as part of a separate planning application and it would be unlawful to impose a duplicate condition on this application where the parking would be outside of the red line.)
54. Councillor Claire Rowles asked about the differences between a condition and an informative. It was explained that a planning condition would require the developer to do something, while an informative provided a direction for either the developer or another involved party to consider something. In this case, they would invite the Council to look at the potential for providing crossings. The concern was that the Highway Authority would look at these works as part of the adoption process and so it would be outside of the control of the planning permission.
55. Councillor Doherty confirmed that she did not know enough to override an Environmental Health Officer, so asked for this condition to be excluded from the proposal.
56. Mr Goddard noted that there were two locations where crossings had been proposed that were within the red line, including the crossing on Kings Road to the north of the site and the crossing to the west of the site. Conditions could be added that prior to the Link road being brought into use, appropriate and improved crossing points would be provided in both locations, with plans to first be submitted and approved by the Local Planning Authority.
57. Councillor Abbs asked if the existing zebra crossing at the London Apprentice could be converted to a signal-controlled crossing. This would break up the flow of traffic. Mr Goddard noted that the crossing was not within the red line for this application, but it could be covered by an informative. Again, he highlighted that there were design criteria which the crossing would need to meet, so he could not give a definitive view in the meeting.

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58. Councillor Barnett asked when the parking issue would be resolved and the timing and location of the closure of Kings Road to through traffic. He highlighted that there was an opportunity to incorporate unrestricted parking on Kings Road within the residents parking permit scheme. Also, if the point at which the road was to be closed was near to 132 Kings Road, there might be an opportunity to create additional parking for residents affected by the Link road scheme.
59. The Chairman then asked officers to summarise the final list of conditions and informatives to be attached to the planning permission if the proposal was approved. Mr Simon Till indicated that these would be as per officers' recommendation plus:
- A condition that prior to the road being brought into use, appropriate and improved crossing points would be provided on Kings Road to the north of the site and on the Link road to the west of the site, with plans to be first submitted and approved by the Local Planning Authority.
  - Informatives relating to: formalised pedestrian access to Sainsbury's; exploration of permit parking for the unrestricted parking spaces on Kings Road; and exploration of new / improved crossings on Boundary Road (North), adjacent to the London Apprentice.
60. It was confirmed that the alternative provision of parking spaces displaced by the Link road scheme would be addressed through the parallel planning application for non-material changes to the buildings.
61. The Chairman invited Members of the Committee to vote on the proposal by Councillor Lynne Doherty and seconded by Councillor Jeff Cant to grant planning permission. At the vote the motion was carried.

**RESOLVED** that the Service Director for Development and Regulation be authorised to grant planning permission subject to completion of a Section 106 Legal Agreement by 9 September 2022 and in accordance with the following conditions:

### Heads of Terms for the Section 106 Agreement Deed of Variation

1.	<p><b>Summary of amendments to Highway Works section of the Section 106 Legal Agreement dated 31 March 2015.</b></p> <ol style="list-style-type: none"><li>1) Add the "retaining wall and acoustic barrier fence" to the definition of "the Access Road" in the definitions Section 1.1</li><li>2) Add this application reference "22/00493/FUL" to the definition of "the Application" in the definitions Section 1.1</li></ol> <p><b>First Schedule</b></p> <ol style="list-style-type: none"><li>3) Amend the wording in clause (5) from "Not to commence the development until they have entered into an agreement with the Council pursuant to Section 278 of the Highways Act", such that the clause states "Not to occupy the development"</li><li>4) Amend the Clause (5) sub sections 5.1, 5.2 and 5.3 respectively as follows:<ol style="list-style-type: none"><li>a) The provision of a mini roundabout onto Kings Road along with associated footways fronting the site alongside Kings Road.</li><li>b) Provision of improvements to the Boundary Road / Hambridge Road / Kings Road crossroads.</li><li>c) Realignment of Boundary Road between Hambridge Road and the</li></ol></li></ol>
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## WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES

	<p style="text-align: center;">railway bridge, with the provision of a footway along the western side of Boundary Road</p> <p>5) Amend the wording in clause (6) from “Not to commence the development until they have entered into an agreement with the Council pursuant to Section 38 of the Highways Act”, such that the clause states “Not to occupy the development”</p> <p>6) Amend the wording in clause (7) from “Not to commence the development” such that it states “Not to occupy the development until the Access road, acoustic barrier fence, retaining wall and access rights for inspection and maintenance have been completed and adopted by the Council as public highway maintainable at the public expense.”</p> <p><b>Second Schedule: “Infrastructure Contribution”</b></p> <p>7) Add a Clause to the Second Schedule which states that the applicant will provide and pay for all the permits/agreements and all costs (including third party costs) with Network Rail for West Berkshire Highway Authority to inspect and maintain the retaining wall structure. The sum of contribution will be finalised and included in the Second Schedule.</p> <p>8) Add to the Second Schedule, a sum of funding (level to be advised by Highway Authority) for measures to deliver the Travel Plan and encourage sustainable travel choices to be made by residents of the development.</p> <p>Amend as necessary, any other associated clauses in association with the above Heads of Terms and proposed development as advised by the Council’s Legal Service.</p>
2	<p><b>Council’s Costs</b></p> <ul style="list-style-type: none"> <li>To pay the Council for the reasonable legal costs incurred in the review, negotiation, preparation and execution of the section 106 legal agreement through an administration fee.</li> </ul>

### Conditions

1.	<p><b>Time Limit for commencement</b></p> <p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
2.	<p><b>Approved plans</b></p> <p>The development hereby permitted shall be carried out in accordance with the following approved documents and plans:</p> <p>Received on 24 February 2022</p> <ul style="list-style-type: none"> <li>Jakoustic reflective fence details</li> <li>Noise assessment</li> </ul>

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- Application form

Received on 28 February 2022

- Location plan
- Highway construction details
- Section 38 long sections
- Section 38 swept path analysis bus
- Section 38 setting out plan
- Amended Section 278 cross sections

Received on 08 March 2022

- Drainage strategy, SUDS and sewer system improvements part 1
- Drainage strategy, SUDS and sewer system improvements part 2
- Drainage strategy, SUDS and sewer system improvements part 3
- Construction management plan logistics plan

Received on 15 March 2022

- Amended Section 278 site clearance
- Amended Section 278 contours and levels
- Amended Section 278 pavement finishes and kerb types
- Amended Section 278 road markings and signage
- Amended Section 278 plan
- Amended Section 278 proposed street lighting sheet 1
- Amended Section 278 proposed street lighting sheet 2
- Amended Section 278 swept path analysis rigid bus
- Amended Section 278 boundary road railway bridge proposals
- Amended Section 278 scheme layout
- Amended Section 278 proposed drainage
- Amended Section 278 swept path analysis refuse vehicle sheet 1
- Amended Section 278 swept path analysis refuse vehicle sheet 2
- Amended Section 278 new routes temporary signing plan

Received on 05 May 2022

- Applicant response regarding acoustic fence

Received on 06 May 2022

- Jackure fence 25 year guarantee
- Fencing due diligence statement
- Section 278 comments
- Amended construction management plan statement
- Amended section 38 proposed phasing and drainage plan
- Amended Newbury remaining construction method schedule
- Amended section 38 retaining walls
- Amended section 38 scheme layout
- Amended section 38 proposed levels
- Amended section 38 pavement finishes and kerbs
- Amended section 38 road markings and signage

## WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES

	<ul style="list-style-type: none"> <li>• Amended section 38 adaptable highway infrastructure plan</li> <li>• Amended section 38 cross sections</li> <li>• Amended section 38 proposed street lighting</li> <li>• Amended section 38 swept path analysis refuse vehicles</li> <li>• Cable ducting plan</li> <li>• Amended drainage construction details</li> </ul> <p>Received on 26 May 2022</p> <ul style="list-style-type: none"> <li>• Amended acoustic fence details plan</li> </ul> <p>Received on 27 May 2022</p> <ul style="list-style-type: none"> <li>• <u>Applicant response to drainage comments</u></li> <li>• Section 38 <u>Amended drainage plan</u></li> </ul> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
3	<p><b>External Materials</b></p> <p>The materials to be used in the development hereby permitted shall be as specified on the plans and documents. The development shall be carried out in accordance with the approved materials.</p> <p>Reason: To ensure that the external materials respect the character and appearance of the area. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).</p>
4	<p><b>Sustainable drainage measures</b></p> <p>Irrespective of the submitted details, the development hereby approved shall not be first used or open to traffic until details of the full sustainable drainage measures to manage surface water runoff within the site have been submitted to and approved in writing by the Local Planning Authority.</p> <p>The sustainable drainage measures shall be implemented in accordance with the approved details before the link road hereby permitted is open to traffic, 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 in the approved condition thereafter.</p> <p>Reason: To ensure that surface water will be managed in a sustainable 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 the West Berkshire Supplementary Planning Document Quality Design (June 2006).</p>
5	<p><b>Surface water ground infiltration</b></p> <p>No infiltration of surface water drainage into the ground is 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 controlled waters. The development shall be carried out in accordance any submitted details that are approved.</p>

## WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES

	<p>Reason: To protect local groundwater. This condition is applied in accordance with the requirements of the NPPF and Policies CS14 and CS16 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012.</p>
6	<p><b>Piling and Groundwater</b></p> <p>Piling or any other foundation designs using penetrative methods shall 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 development shall be carried out in accordance with any submitted details that are approved.</p> <p>Reason: To protect local groundwater. This condition is applied in accordance with the requirements of the NPPF and Policies CS14 and CS16 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012.</p>
7	<p><b>Construction Method Statement</b></p> <p>The development shall be carried out in accordance with the approved Construction Method Statement and site set-up plan.</p> <p>Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>
8	<p><b>Construction hours</b></p> <p>No construction works shall take place outside the following hours, unless otherwise agreed in writing by the Local Planning Authority:</p> <p>7:30am to 6:00pm Mondays to Fridays; 8:30am to 1:00pm Saturdays;</p> <p>No work shall be carried out at any time on Sundays or Bank Holidays.</p> <p>Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS14 of the West Berkshire Core Strategy 2006-2026.</p>
9	<p><b>Link road completion prior to Phase one occupation</b></p> <p>No dwelling within phase one shall be occupied until the B3421 link road from Hectors Way to Boundary Road is completed and open to traffic along with all off site highway works along Kings Road and Boundary Road have all been constructed in accordance with the approved drawing(s).</p> <p>Reason: To ensure that safe access arrangements are provided and maintained before the dwellings are occupied, in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).</p>



## WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES

10	<p><b>Link road completion prior to Phase two development</b></p> <p>No development shall take place within phase two until the B3421 link road from Hectors Way to Boundary Road is completed and open to traffic along with all off site highway works along Kings Road and Boundary Road have all been constructed in accordance with the approved drawing(s).</p> <p>Reason: To ensure that safe access arrangements and the interest of road safety. This condition is applied in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).</p>
11	<p><b>Retaining wall structure</b></p> <p>No dwelling within phase one shall be occupied until all retaining structures, barriers and fencing along the railway line have been constructed in accordance with the approved drawings.</p> <p>Reason: To ensure that safe access arrangements and the interest of road safety. This condition is applied in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).</p>
12	<p><b>Gordon Road Vehicle Restraint System</b></p> <p>No dwelling within phase one shall be occupied until a Risk Assessment covering the need for a vehicle retaining barrier at the top of the embankment alongside Gordon Road has been submitted in writing and approved by the Local Planning Authority, all appropriate recommendations provided, with the system then being constructed in accordance with the approved drawing(s).</p> <p>Reason: In the interest of road safety. This condition is imposed in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).</p>
13	<p><b>Acoustic barrier</b></p> <p>The development hereby permitted shall be implemented in accordance with the Noise Impact Assessment Ref P17-450-R01v1 by Hepworth Acoustics Ltd dated January 2019, Jakoustic reflective fence details received on 24 February 2022, Applicant response regarding acoustic fence received on 5 May 2020, Jackure fence 25 year guarantee details, the fencing due diligence statement received on 06 May 2022 and the amended acoustic fence details plan received on 26 May 2022.</p> <p>The completed acoustic fence shall be coated with anti-graffiti application as detailed on the amended acoustic fence details plan received on 26 May 2022.</p> <p>No dwelling within phase one shall be occupied until the approved Acoustic Barrier details have been approved as part of being adopted as Highway by the West Berkshire Highway Authority.</p> <p>Reason: To safeguard the amenity of adjoining land uses and occupiers of properties along Gordon Road, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>

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14	<p><b>Pedestrian crossings fronting development</b></p> <p>Prior to the north to south section of the new link road being completed to a base course details of pedestrian crossing facilities across Kings Road to the north and Hector's Way to the west of the phase one building have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the crossings have been provided in accordance with the approved scheme and any statutory undertaker's equipment or street furniture located in the position of the footway has been re-sited to provide an unobstructed footway/cycleway.</p> <p>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 and Policy CS13 of the West Berkshire Core Strategy (2006-2026)."</p>
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### Informatives

1.	<p><b>Approach of the LPA</b></p> <p>This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has worked proactively with the applicant to secure and accept what is considered to be a development which improves the economic, social and environmental conditions of the area.</p>
2.	<p><b>Legal agreements - Section 106</b></p> <p>This Decision Notice must be read in conjunction with the terms of the Legal Agreement of the *. You are advised to ensure that you have all the necessary documents before development starts on site.</p>
3	<p><b>Consent to enter land</b></p> <p>You must obtain the prior consent of the owner and occupier of any land upon which it is necessary for you to enter in order construct, externally finish, decorate, or in any other way carry out any works in connection with this development, or to obtain any support from adjoining property. This permission granted by the Council in no way authorises you to take such action without first obtaining this consent.</p>
4	<p><b>Damage to footways, cycleways and verges</b></p> <p>The attention of the applicant is drawn to the Berkshire Act, 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway, cycleway or grass verge, arising during building operations.</p>
5	<p><b>Damage to the carriageway</b></p> <p>The attention of the applicant is drawn to the Highways Act, 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.</p>

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6	<b>Network Rail Assets protection</b>  Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact <a href="mailto:assetprotectionwestern@networkrail.co.uk">assetprotectionwestern@networkrail.co.uk</a> .
7	<b>Drainage</b>  Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway. Drainage is not to show up on Buried service checks.
8	<b>Ground Levels</b>  The developers should be made aware that Network Rail needs to be consulted on any alterations to ground levels. No excavations should be carried out near railway embankments, retaining walls or bridges.
9	<b>Ground Disturbance</b>  The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.
10	<b>Piling</b>  Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.
11	<b>Potential additional pedestrian crossing near Sainsbury</b>  Highway Officers shall consider appropriate pedestrian crossing facilities to the north of the Hectors Way / Sainsbury access roundabout. If considered appropriate, highway officers shall endeavour to provide such a facility as early as practically possible.
12	<b>Potential upgrading of zebra crossing fronting London Apprentice PH</b>  Highway Officers shall consider upgrading the existing zebra crossing facility fronting the London Apprentice PH to a signal controlled crossing. If considered appropriate, highway officers shall endeavour to provide such a

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	facility as early as practically possible.
13	<p><b>Kings Road</b></p> <p>Highway Officers shall consider the future of Kings Road from the existing B3421 Kings Road traffic signal junction to the proposed B3421 Hectors Way / Kings Road mini roundabout. Items to consider would include the provision of cul-de-sacs with turning areas at appropriate locations, along with future arrangements for on street car parking along this section of Kings Road. Such considerations shall take place in consultation with the local community, members and other appropriate stakeholders. When an appropriate design solution is agreed, highway officers shall endeavour to provide the highway works as early as practically possible.</p>

### S106 Planning Obligation Refusal Reason

The development fails to provide an appropriate scheme of works or off-site mitigation measures to accommodate the impact of the development on local infrastructure, or provide an appropriate mitigation measure such as a planning obligation.

The application fails to provide a Section 106 Planning Obligation to deliver necessary infrastructure and mitigation measures, including:

(a) Highway safety in accordance with Policy CS13 and TRANS.1 without which the proposal would be contrary to the NPPF, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, Policy TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007) and the Planning Obligations SPD.

### (2) **Application No. and Parish: 21/03132/HOUSE, 14 Lime Close, Newbury, RG14 2PW**

*(Councillors Phil Barnett and Tony Vickers declared a personal interest in Agenda Item 4(2) by virtue of the fact that they were Members of Newbury Town Council and its Planning and Highways Committee. They had been present when the application was discussed, but would consider the application afresh. As their interest was personal and not prejudicial or a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.)*

1. The Committee considered a report (Agenda Item 4(2)) concerning Planning Application 21/03132/HOUSE in respect of Partial Retrospective: Retention of existing metal staircase to side gable end wall and addition of proposed privacy screen.
2. Mr Scott Houston, Planning Officer, introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion the report detailed that the proposal was acceptable in planning terms and officers recommended that the Service Director – Development and Regulation be authorised to grant planning permission, subject to the conditions outlined in the main and update reports.
3. In accordance with the Council's Constitution, Mr Nigel Foot, Newbury Town Council, Ms Karen Munroe, objector, and Ms Amanda Olley, agent, addressed the Committee on this application.

### Town Council Representation

## **WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES**

4. Mr Foot in addressing the Committee raised the following points:

- This application had come before Newbury Town Council on two occasions.
- At the meeting of 24 January 2022, the Planning and Highway Committee's recommendation was to object due to overbearing of neighbours causing privacy concerns, and noise from the metal staircase.
- At the meeting of 7 March 2022, the Committee's recommendation was to strongly object for the same reasons as before. They went on to ask that the Local Planning Authority take enforcement action in this matter, since it was a retrospective application that had given neighbours no chance to object before it was built.

### **Member Questions to the Parish/Town Council**

5. Members did not have any questions of clarification.

### **Objector Representation**

6. Ms Munroe in addressing the Committee raised the following points:

- She lived at 38 Cresswell Road directly opposite the gable end shown in the photographs.
- Members who attended the site visit could see that 80% of her property was overlooked by the staircase and door, including her bedroom and living room.
- She had been unable to use her garden and for the last 18 months, she had had to keep her curtains and blinds shut for fear of overlooking.
- The photographs showed that the staircase was an eyesore and the proposed privacy screen would be overbearing for her and her neighbour.
- Three other properties were also affected, since the garden was on a corner of Cresswell Road.
- This was a retrospective application and it was questioned whether the changes had been inspected by Building Control.
- Ms Munroe had undertaken changes at her own home, which had required planning permission and inspections by Building Control.
- The staircase had affected her wellbeing and day-to-day life for the last 18 months, and she was saddened that she was having to again seek the Committee's support to have it removed.
- She appreciated that it was not a great area, but it did not mean that residents did not care about their properties, and she suggested that Members would feel the same if they had a similar view from their properties.
- She was also concerned about noise.
- She felt that it made a mockery of the planning process to submit a retrospective application for a change that had already been made.

### **Member Questions to the Objector**

## **WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES**

7. Members asked for further details about noise issues. It was noted that the staircase was metal, so sound would travel when people went up and down. There was also a doorbell fitted, which suggested that there would be a lot of use of this entrance. Wiring had also been installed for a security light that would shine onto neighbouring properties. The owner had continued to do work and had used the access even though it had not been approved.

### **Agent Representation**

8. Ms Amanda Olley from Summit Planning Limited in addressing the Committee raised the following points:
  - The officer's report brought to a head some 18 months of submissions in relation to this matter.
  - The development had been the subject of an initial application that had been refused planning permission under delegated powers. This was appealed and the appeal was dismissed on the grounds of overlooking of neighbouring properties. This was on the basis of retaining the staircase in its current form.
  - The appeal inspector's judgement was clear that no reasonable grounds of refusal could be sustained regarding the visual appearance of the staircase.
  - Regarding the concern about overlooking, the inspector had opened a door to a solution, which was the subject of the current application.
  - It was proposed to introduce a privacy screen at a height of 1.8m, which would be more than the eye height of an average person. The screen would be obscurely glazed to remove any potential for overlooking of neighbouring properties.
  - The screen would also help to neutralise the impact of comings and goings at the property as viewed from outside the site.
  - The positive impact of the privacy screen had been reflected in the representations made in relation to the application. There was a balance between those nearby neighbours who wished to maintain an objection and those who had recognised the efforts of the applicant to address the single area of concern.
  - A nearby neighbour who had a direct view of the stairs had confirmed no ongoing objection.
  - As advised in the officer's report, the addition of the privacy screen resulted in highly limited views from all angles.
  - The proposal was felt to strike an appropriate balance between the extent of the privacy screen and its visual appearance. However, at the site visit, Members suggested that the proposed height might not be sufficient. The applicant was amenable to increasing the height of the screen if Members felt this to be necessary to reduce the perceived impact on neighbours.
  - Having been through the appeal process and having received a clear judgment and direction by the inspector, the applicant was keen that the matter should not end up at appeal again in order to avoid any associated appeal for costs.
  - The proposed privacy screen had appropriately addressed the single concern highlighted by the inspector and presented an acceptable way forward that was hoped would draw the matter to a close.
  - She encouraged Members to support the officer's recommendation.

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### **Member Questions to the Agent**

9. Members noted that the agent had not mentioned noise and asked if she considered this would be an issue. Ms Olley confirmed that the staircase was not finished and that noise was not anticipated to be an issue.
10. Members asked why the external staircase was necessary. Ms Olley confirmed that the applicant wished to bring his mother-in-law to live at the property and to create an internal annexe with an independent means of access. Members asked if this would create two flats. Ms Olley confirmed that it would not.
11. It was noted that other parties might consider noise to be an issue, and the agent was asked if the applicant would be prepared to consider rubber matting on the stairs. Ms Olley indicated that the applicant was open to solutions to mitigate against any perceived impacts.
12. In relation to the proposed barrier, it was noted that this would have Level 3 obscure glass, which people could just about see through. The agent was asked if a higher level of obscurity would be acceptable. Ms Olley did not consider this to be justified, but confirmed that it could be considered if Members felt it was necessary.

### **Member Questions to Officers**

13. Members noted that the distance from the staircase to Ms Munroe's bedroom was less than 21m and asked if the proposed screen would be sufficient to address the issue of overlooking. It was confirmed that officers had made a discretionary judgement. The 21m distance was taken to apply to facing windows. In this case, the level of obscurity proposed was felt to provide effective mitigation.
14. Members asked for details of what the screening would look like. It was confirmed that there would be black trellis below the glass screen. The possibility of a condition requiring vegetation to be planted to screen the trellis had been discussed, but was considered to be an onerous imposition.
15. The colour of the trellis was queried, since the black finish was felt to be overbearing. It was confirmed that this colour had been chosen to match the existing staircase, but Members could ask for an alternative colour.
16. Members asked about the appeal decision. Officers indicated that in determining the acceptability of the staircase, the inspector felt that it had an unacceptable impact on neighbours' privacy and amenity. There was a refusal reason related to the impact on the character and appearance of the area, but the inspector, mindful of the limited views from the public domain, did not uphold this as a reason for refusal. In terms of the current application, Members would need to be satisfied that the privacy screen would have a significantly higher impact on visual amenity than the existing staircase, and that there was sufficient justification in terms of visual impact on public as well as private views in order to cite impact on character and appearance as a reason for refusal. It was acknowledged that the appeal decision set a difficult position in terms of removal of the staircase. If the application for the screen were to be refused then it would be open to the applicant to seek an alternative or to appeal the refusal. There would also be the potential for costs if the inspector considered that the matters had been substantially addressed from the previous appeal. However, the Committee could seek to impose conditions relating to the height of the screen, alternative trellis treatment, provision of rubber treads on the stairs and lighting. The applicant had

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already confirmed that he would be willing to consider an increase in the height of the screen if Members considered this necessary.

### **Continuation of meeting**

17. In accordance with the Council's Constitution point 7.13.5, the Committee agreed that the remaining business could not be concluded by 10.30pm, and so the meeting would have to be concluded by 10pm.

### **Debate**

18. Councillor Jeff Cant opened the debate. He felt that it was covert redevelopment into two flats and that the proposal was intrusive on neighbours, so he was inclined to vote against it.
19. Councillor Tony Vickers observed that noise issues were not covered by the appeal, and this should be covered by a suitable condition. He did not consider it necessary to increase the obscurity of the screen, but increasing the height to 2m would ensure there was no loss of privacy for neighbours. He indicated that he would be minded to support the application if these changes could be secured by conditions.
20. Councillor Adrian Abbs felt that the black colour scheme increased the visual impact and the Inspector's comments had been based on a staircase rather than a black monolithic block. He indicated that he was opposed to the proposal in its current form.
21. Councillor Phil Barnett expressed concerns about distance, intrusion and noise affecting neighbours. He considered that the development was out of character with the surrounding area. He indicated that he was minded to oppose the application.
22. Councillor James Cole thought that if the application was refused, then it would go to appeal. He noted that the staircase was already in place and had been to appeal once. He suggested that it should be approved, but with stringent conditions.
23. He felt that the black colour should be changed and broken up, the height of the screen should be increased, and the opacity of the screen increased to Level 4. He also proposed that there should be rubber matting on the stair treads to address the noise issue. Also, any outside lighting should be agreed by the Local Planning Authority and should be restricted.
24. Councillor Cole proposed to accept officer's recommendation and grant planning permission subject to the conditions listed in the main report and update report and with additional conditions to: increase the height of the screen to 2m; increase the opacity of the screen to Level 4; provide rubber matting on the stair treads to minimise noise; and to require the applicant to submit plans for approval for any associated lighting. This was seconded by Councillor Tony Vickers.
25. Councillor Lynne Doherty indicated that she was opposed to the proposal, since it was a retrospective application that was being forced through. She felt sorry for the affected neighbours and suggested that this should not be how planning was done.
26. The Chairman invited Members of the Committee to vote on the proposal by Councillor James Cole, seconded by Councillor Tony Vickers to grant planning permission. At the vote the motion was rejected.
27. Councillor Lynne Doherty proposed to reject officer's recommendation on the basis that that the inspector's reservations about intrusiveness and detrimental impact on



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appearance had not been resolved, as well as Members' concerns about increased visual impact, noise and the impact of associated lighting. This was seconded by Councillor Jeff Cant.

28. The Chairman invited Members of the Committee to vote on the proposal by Councillor Lynne Doherty, seconded by Councillor Jeff Cant to grant planning permission. At the vote the motion was carried.

**RESOLVED** that the Service Director for Development and Regulation be authorised to refuse planning permission for the following reasons:

### Reasons

- The proposed works are partially retrospective for the retention of an existing external stair that was erected without planning permission. An appeal, reference APP/W0340/D/21/3276930, against the refusal of planning application 21/00445/HOUSE was dismissed due to concerns with the impact on neighbouring privacy and amenity due to overlooking generated by the unauthorised stair. Following this appeal decision the proposed works are reliant on a privacy screen and trellis to be added to the existing stair in order to mitigate overlooking, loss of privacy and the perception of loss of privacy resulting from the location and use of the stair. The proposed works would result in the imposition of additional development in the form of the privacy screen and trellis that would be observed from the rear windows and rear amenity spaces of several neighbouring properties and visually imposing with a conspicuous and overbearing appearance when viewed from the rear windows and amenity areas of those surrounding properties, as well as from the public domain in glimpsed views between numbers 40 and 42 Cresswell Road to the north east of the application site where the existing stair can already be seen. Furthermore the proposed works, by virtue of the combined monolithic appearance of the stair, trellis and privacy screen, would be of a poor quality of design and result in a detrimental impact on the character and appearance of the site and surrounding area. The proposed works would therefore fail to meet with the requirements of the NPPF and Policy CS14 of the West Berkshire Local Plan Core Strategy 2012 for development to demonstrate a high quality and sustainable design that respects and enhances the character and appearance of the area. Furthermore, the proposed works would result in disruption to neighbouring amenity due to noise of an intrusive nature arising from the use of the stair for day to day comings and goings and the use of any associated lighting. The proposed works would therefore fail to provide for a high standard of amenity for existing and future occupants of land and buildings adjacent to the site or to make a positive contribution to the quality of life in West Berkshire, contrary to the requirements of the NPPF and Policy CS14 of the West Berkshire Local Plan Core Strategy 2012.

### (3) **Application No. and Parish: 22/00648/FULD, 61 Russell Road, Newbury, RG14 5JX**

Members agreed that that as there was not sufficient time to determine the application at this meeting, it would need to be deferred to a subsequent meeting.

*(The meeting commenced at 6.39 pm and closed at 9.59 pm)*

**CHAIRMAN**

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**WESTERN AREA PLANNING COMMITTEE - 8 JUNE 2022 - MINUTES**

**Date of Signature** .....