

Item (1)	
Title of Report:	Planning Application 19/00113/OUTMAJ, Land East of Pincents Lane, Tilehurst
Proposal:	The proposed development is a hybrid application: Outline for up to 165 dwellings on the western part of the site and a 450sqm (GIA) of floorspace building in use class E to be offered initially to provide a community healthcare hub under use E(e), and excluding use E(g); engineering operations on the area covered by the outline application to create suitable gradients for internal site roads and development platforms for the residential development; and full application for change of use of the eastern part (8ha) of the site for use as public parkland, to be protected from development in perpetuity. All matters except for access to the site are to be reserved. Matters for which detailed approval are sought are: The detailed design of the vehicular access to the site from Pincents Lane and associated turning area, the location emergency vehicular access to the site and the locations of pedestrian and cycling accesses to the site.
Report to be considered by:	District Planning Committee
Date of Meeting:	13 April 2022
Forward Plan Ref:	N/A

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=19/00113/OUTMAJ>

Purpose of Report:	To set out the considerations to enable District Planning Committee to determine planning application 19/00113/OUTMAJ.
Recommended Action:	The recommendation of the Eastern Area Planning Committee is to delegate to the Service Director of Development and Regulation to refuse planning permission for three reasons which are outlined in this report and in the minutes of that meeting.
Reason for decision to be taken:	The application has been referenced up by the Development Control Manager due to a district wide public interest and a possibility of significant costs to the Council.
Key background documentation:	<p>Appendix 1: Eastern Area Planning Committee agenda report from 19 January 2022.</p> <p>Appendix 2: Eastern Area Planning Committee update sheet from 19 January 2022.</p> <p>Appendix 3: Eastern Area Planning Committee minutes</p>

from 19 January 2022.

Appendix 4: HELAA Site Assessments Stage 2(E):
Assessing deliverability (Tilehurst sites).

Portfolio Member Details	
Name:	Councillor Richard Somner
E-mail Address:	Richard.Somner@westberks.gov.uk

Contact Officer Details	
Name:	Ms Lydia Mather
Job Title:	Principal Planning Officer
Tel. No.:	01635 519111
E-mail Address:	Lydia.mather@westberks.gov.uk

Implications

- Policy:** The Eastern Area Planning Committee consider the proposal to conflict with policy C1 of the Housing Site Allocations Development Plan Document, policy CS13 of the Core Strategy, and the National Planning Policy Framework.
Officers consider that when taking the Council's housing policies as a whole there is limited conflict with policy C1 and no conflict with policy CS13 or the National Planning Policy Framework.
- Financial:** Should the application be approved and implemented it will be liable for the Community Infrastructure Levy and contributions under a planning obligation through a S106 legal agreement.
Should the application be refused and the decision appealed the Council may be at risk of significant costs. These are costs associated with defending an appeal and potential award of costs against the Council as part of an appeal decision.
- Personnel:** Not applicable.
- Legal/Procurement:** As per the financial implications outlined above.
- Property:** Not applicable.
- Risk Management:** As per the financial and policy implications outlined above.
- Equalities Impact Assessment:** Not applicable.

1 Executive Summary

1.1 The resolution of the Eastern Area Planning Committee on the application at its meeting on 19th January 2022 was that the Service Director Development and Regulation be authorised to refuse planning permission for the following reasons:

1. The proposed development for up to 165 houses is not on land identified as suitable for residential development. The application site is located outside of a defined settlement boundary, below the settlement hierarchy, and where there is a presumption against residential development. The site is not land that has been allocated for residential development. The proposed development is not for rural exception housing, to accommodate rural workers, or limited infill within a closely knit cluster of 10 or more dwellings. As such the proposed development is contrary to policy C1 of the Housing Site Allocations DPD 2006-2026 and the National Planning Policy Framework.
2. The proposed access along Pincents Lane is not suitable to serve the proposed development. At peak times the existing congestion along Pincents Lane is such that it would have an unacceptable impact on the access to and egress from the site on the proposed residents of the development and therefore on highway safety and the flow of traffic. As such the proposed development is contrary to policy CS13 of the West Berkshire Core Strategy 2006-2026 and the National Planning Policy Framework.
3. The application fails to provide an appropriate planning obligation to mitigate the impact of the development with regard to affordable housing, housing for older people, custom and self-build housing, community building, emergency vehicle access, public open space, public rights of way, sustainable travel, climate change and resilience measures. The District has a high affordable housing need and an affordability ratio above the national average as well as a high number of individuals seeking self-build plots. Public open space and upgrades to the public rights of way and increase in sustainable travel options are all required from the development, and there is a statutory duty on climate change. Without these planning obligations the proposed development conflicts with policies CS5, CS6, CS13, CS15, and CS18 of the West Berkshire Core Strategy 2006-2026, the Planning Obligations SPD and the National Planning Policy Framework.

1.2 The Development Control Manager has referenced up the application to District Planning Committee for determination for the following reasons:

1. The implications of refusing the application are district wide in that it has a direct impact on the strategic direction of the Local Plan Review in allocating housing within the District until 2037.
2. The significant costs of an appeal. In defending an appeal the Council will incur costs in preparing evidence, including the need to appoint a barrister and a specialist consultant witness for the second refusal reason. Furthermore, an appeal Inspector may award costs against the Council should they consider the Council has acted unreasonably and caused the applicant unnecessary or wasted expense.

1.3 The agenda report for the application at the 19th January 2022 Eastern Area Planning Committee sets out in its introduction the details of the proposed development. The

agenda report also outlines the planning history of the site, procedural matters, consultation responses, planning policy, and the Officers' appraisal of the application including the planning balance. The Officer recommendation to grant permission is subject to conditions and planning obligations secured by a Section 106 agreement.

- 1.4 The recommendation of Eastern Area Planning Committee is for the application to be refused for the reasons above. Whilst the reasons for the Eastern Area Planning Committee are respected by Officers their recommendation remains that planning permission be granted subject to the conditions and the completion of a Section 106 legal agreement asset out in the Eastern Area Planning Committee agenda report. This is because Officers consider the benefits of the proposal outweigh the harms, and the conflict with policy C1 being limited where the development otherwise complies with development plan policies for housing which are not applicable elsewhere in the District.

2 Main Issues

Principle of development and planning policy

- 2.2 The agenda report for the application at the 19th January 2022 Eastern Area Planning Committee sets out in paragraphs 6.5 to 6.10 the direction of the Local Plan Review. The Regulation 18 Local Plan Review of February 2021 identified that the Tilehurst Neighbourhood Area be allocated 175 houses as part of meeting the housing need in the east of the District. In response to the Regulation 18 consultation the Tilehurst Neighbourhood Area Steering Group informed the Council it no longer wished to allocate any land for housing as part of its Neighbourhood Development Plan.
- 2.3 No sites for housing have therefore been identified for Tilehurst by the Regulation 18 Local Plan Review consultation or by the Tilehurst Neighbourhood Development Area Steering Committee. Consequently there is a shortage of 175 new housing allocation in the east of West Berkshire to meet the needs of its residents over the next plan period.
- 2.4 The background to the Regulation 18 consultation was the Housing and Economic Land Availability Assessment (HELAA). For Tilehurst 18 sites were assessed. Of those all but four were assessed as unsuitable. As a result only those four were assessed for availability, achievability and deliverability; Dacre, Fairfields and Westwinds on New Lane Hill and this site at Pincents Lane. An extract of the HELAA is provided in Appendix 4.
- 2.5 The New Lane Hill sites were assessed as having unknown availability and achievability due to there being covenants on site, but two were potentially developable and one site potentially developable in part due to the need for a buffer required where it adjoins an ancient woodland. Their development potential was estimated to be 44 houses in total.
- 2.6 This application site at Pincents Lane was the only one assessed as available, achievable and potentially suitable and developable, in part due to a 2015 landscape sensitivity assessment. Its development potential was estimated to be 138 houses.
- 2.7 Going forward the Local Plan Review will need to reconsider where to allocate houses in Tilehurst. The HELAA evidence indicates the only site having already been

assessed and having the potential to deliver the quantum of housing needed is this site.

- 2.8 It is for this reason the Development Control Manager considers the implications of refusing the application to have district wide implications. At the beginning of December 2021 the Council announced that the Local Plan Review will go to Council this summer and be subject to formal consultation. The Council will therefore need to rely on its existing evidence base, of sites already assessed in the HELAA, to distribute housing allocations across the District to meet the identified housing need for the plan period. The District is heavily constrained with nearly three quarters within the North Wessex Downs Area of Outstanding Natural Beauty, as well as the emergency planning zones surrounding AWE Aldermaston and AWE Burghfield.
- 2.9 This leads to the second reason for the referencing up by the Development Control Manager – risk of significant costs to the Council. The applicant has a right to appeal a refusal of permission which will require the Council to give evidence to a Planning Inspector for them to reach a final decision.
- 2.10 It is anticipated that the applicant would request the appeal process to be a public inquiry. If the Planning Inspectorate consider that investigation into and formal testing of evidence is required then a public inquiry would be the appeal process. This is considered highly likely given the scale and relevant planning considerations. The Council would then need to appoint counsel as advocate for the Council and other expert witnesses as appropriate. The costs are anticipated to be to be substantial.

Highways

- 2.11 For the second reason for refusal on highways, the VISSIM traffic model used to assess the impact of this proposal projected that there should not be traffic congestion issues for residents entering or leaving the site. Furthermore, the traffic model complies with Department for Transport standards and has been independently checked by WSP consultants.
- 2.12 Highway officers are aware that there are occasions throughout the year when there is traffic congestion in this location, but it is considered by highway officers that the number of occasions is very limited, possibly less than ten times a year.
- 2.13 As the Council's highways officers recommended approval of the application it would not be possible for highway officers to defend the appeal. External highway consultants would then need to be appointed. It is likely that overall costs with using highways consultants for a public inquiry would be circa £25,000. If the appellant's costs were awarded against the Council on the highway reason for refusal, then it is anticipated that those costs would be of a similar level.
- 2.14 The above matters are the background to the Development Control Manager's decision to reference up the application and Officer's ask that the above background information is taken into account when determining the application.

3 Conclusion

- 3.1 The determination of this application comes at a time when the Local Plan Review has encountered some unanticipated issues. Firstly the change in direction from housing in Tilehurst to be allocated by the Neighbourhood Development Plan to

needing to be allocated by the Local Plan Review. Secondly the government changes to the National Planning Policy Framework which now require the Local Plan Review to detail a 30 year vision.

- 3.2 The application itself has been subject to lengthy negotiations and assessment, particularly on highway considerations and to facilitate amendments. Those have been resolved to the satisfaction of Officers under the current development plan, whilst acknowledging there will be some adverse impacts of the development. The Eastern Area Planning Committee recommend refusal based on the current development plan policies.
- 3.3 However, the timing of a refusal in particular may result in any subsequent appeal coinciding with the timing of the Local Plan Review. In that regard the potential award of costs against the Council at appeal is a greater risk if the Council is unable to resolve the Local Plan Review housing allocation in Tilehurst without requiring this site.
- 3.4 Finally, the Council cannot conclude that this site will not be required for housing to meet identified housing need as part of the Local Plan Review. Nor for the reasons set out in the section above can highways officers support the second refusal reason on the impact of the traffic on Pincents Lane on the residents of the proposed development.

4 Recommendation

- 4.1 The application has been referenced up by the Development Control Manager due to the district wide public interest where it has a direct impact on the strategic direction of the Local Plan Review in allocating housing within the District until 2037, and the possibility of significant costs against the Council at appeal including the cost to the Council in defending an appeal. Officers request these are taken into account when determining the application.
- 4.2 The Eastern Area Planning Committee recommend three reasons for refusal, the full wording of which is set out in section 1 above: the conflict with policy C1 where the site is outside of a defined settlement boundary; the impact on the residents of the development accessing and existing the application site due to the traffic along Pincents Lane; and the lack of a planning obligation.

5 Appendices

- Appendix 1: Eastern Area Planning Committee agenda report from 19 January 2022.
- Appendix 2: Eastern Area Planning Committee update sheet from 19 January 2022.
- Appendix 3: Eastern Area Planning Committee minutes from 19 January 2022.
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