

Item No	Application No. and Parish	8/13 Week Date	Proposal, Location and Applicant
(2)	16/00657/FULEXT Newbury Town Council	6 th July 2016 EOT to 31 st August 2016.	Proposed conversion of extant permission for B1[a] to residential use. Erection of 22 dwellings, 11 of which are to be affordable, with associated parking and associated works. David Wilson Homes [Southern] Limited. Land at former Travis Perkins site, Mill Lane, Newbury.

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=16/00657/FULEXT>

Recommendation Summary: **The Western Area Planning Committee resolve to recommend approval of the application to the District Planning Committee.**

Ward Member(s): Councillors Benneyworth and Fredrickson

Reason for Committee determination: The application, if approved would comprise a departure from extant planning policy CS9. This can only be determined by Committee.

Committee Site Visit: 5th August 2016.

Contact Officer Details	
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1. Site History

13/00835/FULEXT. Redevelopment of the site for 37 dwellings and the erection of 1500m² of B1a office space with associated car parking etc. Approval - February 2014.

14/01096/COMIND. Erection of 1500m² of B1a space, plus 9 affordable units. Approval - November 2014.

14/02296/FULEXT. s73A application on 13/00835/FULEXT. Variation of conditions corresponding to phasing and visibility splays. Approved - November 2014.

15/02545/COMIND . s73A application to remove Condition 21 [phasing] of 14/01096/COMIND. Approved - November 2015.

2. Publicity of Application

Site notice displayed on 15 April 2016. Expiry 6th May 2016.

3. Consultations and Representations

Newbury Town Council	Support / comment. The applicant has taken all reasonable steps to market the site for offices. Agree that the site should be built out for housing now. The concerns about traffic from neighbours should be carefully considered.
Newbury Society	Welcomes the application. Prefers the site to be wholly residential.
Highways	Conditional permission on amended plans which indicates acceptable parking standards in relation to the HSADPD policy. Traffic generation, access and forward visibility splays acceptable. Under-croft height satisfactory.
Environment Agency	Application should be considered under standard flood risk advice. Officer note - the applicant has already demonstrated that housing on the site is acceptable to the EA.
Archaeologist	No observations to make. Site of little archaeological importance.
BBOWT	Conditional permission. Landscape and ecological management plan.
Natural England.	No objections to the application. Consideration during construction should be applied to the proximity of the River Kennet SSSI.
Thames Water	Grampian condition to be applied re. drainage strategy on site.
Waste Management.	Conditional permission is recommended.
Tree Officer.	Amended plans required regarding the inclusion of larger specimen trees on site. This can be conditioned.
Planning Policy.	Objection. The inclusion of housing on this CS9 site [employment protection] is contrary to adopted Planning Policy. There is no exceptional case which would justify this being set aside, given the emerging Economic Development Needs Assessment [EDNA] of 2016 for the District, which notes that there will be a continuing need for employment space in the District over the Plan period. Approval would be contrary to the NPPF.
Environmental Health	Conditional permission recommended.
Fire Service	No further hydrants required.
Housing	No response received. Officer note - the provision of 11 units is well in excess of the normal 30% applied to brown field sites in policy CS6 in the Core Strategy.
SUDS	Conditional permission is recommended.
Defence Infrastructure.	No safeguarding objections.

Education.	CIL will be sufficient to meet the Council education needs arising, i.e. no s106 obligation needed.
Representations.	5 objections received from the public. Inadequate parking, traffic generation increase over and above the offices, potential increased overlooking of existing dwellings, retain the offices.

4. Policy Considerations

National Planning Policy Framework 2012.

National Planning Practice Guidance 2014.

West Berkshire Core Strategy 2006 to 2026. Policies ADPP1, CS5, CS6, CS9..

West Berkshire HSA DPD. Policy P1 - parking standards.

5. Description of Development

- 5.1 The application site is currently vacant land adjacent an existing housing development of 37 dwellings, now completed and occupied, to the south. The site abuts Mill Lane to the north and would derive access from that route. The site currently has an extant planning permission for a two storey office building of 1500m² which has not been implemented. To the west lies an office unit of two storeys and to the east lies a bus depot.
- 5.2 It is proposed to erect 22 dwellings on the site up to 3 storeys in height, 11 of which are to be affordable [50%]. It will be associated with 44 parking spaces, two per unit] with 3 visitor spaces adjoining the principal roadway into the site. The buildings will be relatively contemporary in design as the elevations indicate. No external open space is to be provided, but bin stores and cycle stores are to be laid out on the site. All the dwellings in addition, will be 2 bedroomed. .All will be flats apart from one 2 bed townhouse. For clarity if this application is approved this will mean that the extant permission for offices will not be constructed.
- 5.3 It is appropriate for the Committee to be aware of the planning history for the application site as a whole. Some 7 to 8 years ago, Travis Perkins occupied the application site. Accordingly, it was originally designated under saved policy ECON1 in the West Berkshire District Local Plan of 1991 to 2006, which was an employment land protection policy. Once the Core Strategy was adopted in 2012, policy CS9 effectively superceded this policy but had the same effect. In 2008/2009 Travis Perkins vacated the application site and a string of various housing applications followed. These were refused as no employment generation was created. Application 13/00835/FULEXT was however finally approved by the Council for part development of the site for 37 dwellings [with 11 affordable units] but with 1500m² of B1a space on the current application site. The approval of this contained a condition regarding phasing which sought to ensure that prior to the dwellings being completed, the permitted offices would be built out ready for occupation. Application 14/01096/COMIND was subsequently approved which involved a revised office design [still of 1500m²] with an associated nine affordable dwellings being part of the original 37 dwelling scheme as permitted above. This was approved, also with a Condition [21] which had the effect of ensuring the office completion prior to the completion of the nine affordable dwellings. This was not however achieved. Accordingly a s73A application was submitted to rectify this situation by the deletion of Condition 21. This was accepted by Council officers on the basis that to do otherwise would have resulted in the nine affordable dwellings being held vacant for an indeterminate period. [14/02296/FULEXT]. This approval did not affect the validity of the office permission which still remained automatically extant in perpetuity, by virtue of the nine dwelling completion. This remains the case up to the present.

6.0 Consideration of the application.

The application should be considered under the following issues:-

- 6.1 The planning policy position.
- 6.2 Other issues raised - parking and amenity.
- 6.3 CIL and s106 issues.

6.1 Planning policy

6.1.1 Paragraph 22 of the NPPF advises Local Planning Authorities to avoid the long term protection of employment sites, where there is no reasonable prospect of a site being used for that purpose. The application site comprises a policy CS9 site which allows for employment uses only to be permitted, unless an exceptional case can be made. In this instance, it is recognised that whilst housing is being provided, on site, the following is apposite:-

- 1 - The site in physical terms is virtually surrounded now by housing as the Committee site visit will evidence.
- 2 - The site is brown field in a highly sustainable location adjacent the town centre of Newbury, being a short walking / cycling distance away - circa 400m. It is thus entirely appropriate for residential uses.
- 3 - The form of the new building [see below] is considered to be acceptable in design / amenity / physical terms, having regard to the adjacent buildings and uses.
- 4 - It is the planning policy issue which is the most important issue under CS9 to be considered.

6.1.2 Paragraph 17 in the NPPF notes that [in bullet point 1] planning decisions should be genuinely plan led, but in addition, in the next bullet point, be a creative exercise in finding ways to enhance and improve places in which people live their lives. It also identifies sustainable economic development should be proactively driven, and encourage the effective re-use of brown field sites, such as the application site concerned. It is clear that there are conflicting currents in this advice in relation to the scheme, given that if the Council were to simply assess the application in terms of local economic growth, the application should be rejected. However, in para 22 of the NPPF Local Planning Authorities are also encouraged to avoid the long term protection of employment sites, where there appears to be no reasonable prospect of a site being used for such a purpose. Given that applications for alternative uses [such as housing] should be treated on their merits.

6.1.3. Next in para 51 of the NPPF Local Planning Authorities are encouraged to approve changes of use of land to residential uses from a commercial use where there is an identified need for more housing - clearly in this location the demand is extremely high, including that for affordable purposes. Next para 173 in the NPPF identifies the point that Councils should not withhold planning permissions on the basis of viability issues; in this case the applicants have submitted a detailed economic viability appraisal which shows clearly that, at the present time, based upon current market values and rents available, it is not profitable to build out the office block, nor will it be in the foreseeable future unless economic conditions improve dramatically in the office market in Newbury. The precise costs cannot be made public in this report but suffice it to say the office scheme has a substantial negative land value running into millions pounds sterling. Officers are satisfied with the report's conclusions and in this instance have not sought separate independent advice, as it is considered that the planning determination does not turn on this viability issue in any event since policy CS9 seeks only to retain the land / premises in question for any employment use, not the particular scheme which has an extant permission on this site.

6.1.4 In addition the applicants have submitted a Marketing Report on the suitability of the application site for offices. The agents have concluded that given the current weight restrictions for HGVs etc on Mill Lane, the nature and quality of competing sites [e.g.

Newbury Business Park] and the fact that local commercial sentiment does not favour the Mill Lane area for office use in any event, the future prospect of a non speculative scheme coming forward is minimal, if not zero.

- 6.1.5 Finally, in examining the wording of the supporting text to policy CS9, it notes [inter alia] that non-employment generating uses on CS9 sites should not be approved if they substantially prejudice the delivery / implementation of the policy. It is argued in this case that the loss of 0.24ha of such land may be harmful [officers wording] but in the planning balance to be assessed, is the application proposal sufficiently exceptional to justify an approval? In this case the officer has negotiated with the applicant successfully in achieving a 50% rate of affordable housing, which is 20% in excess of what policy CS6 normally applies. This will mean the delivery of 4 additional affordable units on the site. **It is on this basis that officers, on balance, can recommend the application favourably to the Committee, given also the other benefits arising from the proposal.**

6.2. Amenity and Parking matters.

- 6.2.1. The Council is in the process of adopting [subject to the Local Plan Inspector] policy P1 which sets out local parking standards for new housing. The application site lies just within zone 2, so for 2 bed flats 1.5 spaces are required, plus an additional space per 5 flats. On this basis 36 spaces are required in the development. The applicant is actually providing in excess of this at 47 spaces so this is 11 more than is “required”. On this basis, given the sustainable location of the site, it is difficult to give much weight to local resident objections to the lack of parking in the area.
- 6.2.2 Secondly, concerns have been raised by the potential for increased overlooking caused by the new housing on the south elevation facing existing plots 33 - 37. The proposed separation between these dwellings and the new plots to the north will be 16m. Whilst this is 5m less than the normal “back to back” distance of 21m the planning merits differ in that no private space is involved such as rear gardens. Indeed there is no best practice guidance of “front to front” distance that the officer is aware of and so given the lack of any privacy being compromised by the generous 16m distance, officers have concluded that again on this issue the scheme layout is acceptable, i.e. amenity will not be harmed as such.

6.3 CIL and s106 issues.

- 6.3.1 The Education Section has confirmed that should the application be approved, no additional contributions will be required over and above CIL payments. The latter will be approximately £534,000 from the development, bearing in mind that all the affordable units are exempt from such payments. Finally, in order to obtain the affordable units a s106 obligation will be required to be entered into by the applicants. They have stated already in writing that they are willing to do so. It is of course important for this to be secured, since as the permission will not be personal to the applicant and since the officer recommendation is made on the basis that the additional four units are to be supplied, the obligation must be completed prior to any approval.

7.0 CONCLUSION

- 7.1.1. All planning applications must be determined on the basis of the three tenets of sustainability as advised in the NPPF. In economic terms the Committee need to be aware that if the application is approved it will result in the loss of an employment site of 0.24ha and an office permission of 1500m². This potentially would have employed many people, if it had been built out and occupied. [perhaps 75 persons]. This would have been of economic benefit to the town. So the economic impact will be potentially negative. However, in social terms 11 affordable units are to be provided which is a substantial

advantage of the proposal. Finally in environmental terms, not only is the physical form, layout and design of the scheme satisfactory, but it will mean the quick re-use of a vacant site, presently unsightly, which could have remained unused for many years hence. So this aspect is positive.

- 7.1.2 The planning issues are finely balanced, given the fact that policy CS9 must not be undermined, and the District needs to retain its employment land supply. In this case a favourable recommendation is justified however, given the foregoing balance of planning issues to be addressed, having due regard to not only local adopted policy but also that in the NPPF. The application will have to be taken to the District Committee, given that it is a formal departure from the Development Plan.

8. RECOMMENDATION.

The Western Area Planning Committee resolves to recommend the application for approval to the District Planning Committee with a s106 obligation attached to achieve the 50% affordable housing and relevant conditions as noted below.

CONDITIONS.

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

Reason: To enable the Local Planning Authority to review the desirability of the development against the advice in the DMPO of 2015.

2. The Development shall be carried out in strict accord with the following plan numbers - H3642/ 100 ReV D, h3642/rp/04/Rev A, H3642/RP/05 Rev A, H3642/AH/01.

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

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

Reason: To ensure a satisfactory relationship between the proposed building and the adjacent land in accordance with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

4. The hours of work for all contractors (and sub-contractors) for the duration of the site development shall, unless otherwise agreed in writing by the Local Planning Authority, be limited to; 7.30 am to 6.00 pm on Mondays to Fridays, 7.30 am to 1.00 pm on Saturdays, and NO work shall be carried out on Sundays or Bank Holidays.

Reason: In order to protect the amenities of surrounding residents in accordance with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

5. No development shall take place until details of the provision for the storage of refuse and recycling materials for the dwellings have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the refuse facilities have been provided in accordance with the approved details and shall be retained for this purpose thereafter.

Reason: To ensure that there is adequate and safe refuse/recycling facilities within the site. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

6. No development shall commence until the applicant has submitted to the Local Planning Authority a scheme of works, or other steps as may be necessary to minimise the effects of dust from the development. Development shall not commence until written approval has been given by the Local Planning Authority to any such scheme of works.

Reason: In the interests of amenities of neighbouring occupiers in accord with the advice in the NPPF of 2012.

7. No development shall commence until a scheme of sound insulation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the sound insulation of the dwellings against all sources of external noise and the scheme shall be implemented before the development is first occupied. This relates in particular to the bus depot to the east of the application site.

Reason: In the interests of the amenities of the occupants of the building and in accordance with saved policy OVS.6 of the West Berkshire District Local Plan 1991-2006.

8. The development shall not be occupied until a 1.8m high imperforate wall has been erected along the whole of the eastern boundary of the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved wall shall thereafter be retained and maintained at the height and position as approved.

Reason: To protect the amenity and privacy of the occupiers of adjoining properties (from noise) in accord with policy OVS6 in the West Berkshire District Local Plan 1991 to 2006.

9. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until the points 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,

- groundwater and surface waters,

- ecological systems,

- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

If required:

5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with LPA, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. In accord with the advice in the NPPF of 2012.

10. No development shall commence until samples of the materials to be used in the proposed development have been submitted to and approved in writing by the Local Planning Authority. This

condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the submission of samples of glass, plastic and mortar materials. Thereafter the materials used in the development shall be in accordance with the approved samples.

Reason: In the interests of visual amenity in accordance with Policy CS14 in the West Berkshire Core Strategy of 2006 to 2026.

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

- (a) The parking of vehicles of site operatives and visitors
- (b) Loading and unloading of plant and materials
- (c) Storage of plant and materials used in constructing the development
- (d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing
- (e) Wheel washing facilities
- (f) Measures to control the emission of dust and dirt during construction
- (g) A scheme for recycling/disposing of waste resulting from demolition and construction works

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

12. As a first development operation, the vehicular, pedestrian/cycle access and associated engineering operations shall be constructed in accordance with the approved drawing(s).

Reason: In the interest of highway safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

13. The clearance height within the undercroft shall not be less than 2.6m.

Reason: To ensure public safety in accord with the advice in the NPPF of 2012.

14. No dwelling shall be occupied until the vehicle parking and/or turning space have been surfaced, marked out and provided in accordance with the approved plan(s). The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

15. No development shall take place until details of the cycle parking and storage space have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the cycle parking and storage space has been provided in accordance with the approved details and retained for this purpose at all times.

Reason: To ensure that there is adequate and safe cycle storage space within the site. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

INFORMATIVE:

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

Reason: To enable the Local Planning Authority to review the desirability of the development against Policy DP5 of the Berkshire Structure Plan 2001-2016 and Policy OVS2 of the West Berkshire District Local Plan 1991 - 2006 should it not be started within a reasonable time.

- 2 This planning permission must be read in conjunction with a s106 legal agreement dated the vvvvv. You are advised to make yourself aware of the contents.

DC