

Item No.	Application No. and Parish	8/13 Week Date	Proposal, Location and Applicant
(2)	16/03334/FULD Newbury Town Council.	8 th February 2017.	Development of site for 7 dwellings with associated access and landscaping. NSJ Developments. Land at rear of 40 Cromwell Road, Newbury.

To view the plans and drawings relating to this application click the following link:

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=16/03334/FULD>

Ward Member(s):

Councillor Beck.
Councillor Goff.

Reason for Committee determination:

The Council has received in excess of 10 letters of objection.

Committee Site Visit:

20th June 2017.

Recommendation:

The Head of Development and Planning be authorised to GRANT conditional planning permission.

Contact Officer Details

Name:

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1. Site History

01/01882/out. Erection of 4 dwellings with access. Refused. November 2001.

13/03159/fulext. Erection of 12 dwellings with affordable units. Approved November 2014. Not implemented, but still extant.

2. Publicity of Application

Site notice displayed 4th January 2017. Expiry 25th January 2017.

Amended plans site notice. Displayed 13th February 2017. Expiry 27th February 2017.

3. Consultations and Representations

Newbury Town Council	No objection but comment on detail. Clarity required on how open space is to be maintained, some overlooking will occur, off site affordable housing contribution should be made, moving access road to south is helpful.
Highways	Conditional permission is now recommended on the basis of the revised plans submitted. Parking areas now conform to P1 plus adequate turning area on site now for refuse vehicles, once the internal access road is adopted.
Education	The impact on local education can be mitigated by CIL.
Planning Policy	The application is to be supported in principle being a greenfield site [unprotected] in the defined settlement of Newbury. Accordingly policy CS1 in the now adopted Local Plan applies. Some concerns about the lack of affordable housing plus the low density of the scheme so making poor use of urban land.
Housing	Would like to see a minimum of one affordable unit on the application site or the equivalent off site contribution as per policy CS6 in the Adopted Local Plan. Obtain via a s106 obligation.
Newbury Society	Welcomes the application to build fewer, larger homes than the original permission on site.
Tree Officer	Conditional permission is recommended. No trees of value on the site will be lost via the development.
Natural England	No objections. No impact upon protected species nor local SSSI.
Environmental Health	Conditional permission is recommended.
Thames Water	No objections.
Suds	Have objected to the application on the basis that future maintenance of the adopted highway could be problematic, re drainage.
Public Representations.	14 letters of objection based upon the following issues. Impact on roads, particularly at peak periods, impact on local infrastructure, loss of green space, impact on local ecology and species, possible overlooking. Flooding problems are a local concern in addition. Local overflow of drains. Alignment of the internal access road is too close to the northern boundary - impact on neighbours. Will bank be supported? Local congestion problems, enough parking on site? Overdevelopment of the site in addition. Loss of trees on the

	site in the past - most unfortunate. Impact on local species - loss of habitat. Questions the nature of the developer and their experience. Width of internal road may not be enough? One letter of query on details - not support or object.
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4. Policy Considerations

National Planning Policy Framework 2012.

National Planning Practice Guidance 2014.

West Berkshire Core Strategy 2006 to 2026.

Policies ADPP1, CS1, CS4, CS6, CS13, CS14, CS16, CS18, and CS19.

5 Description of development.

- 5.1.1 The application site lies to the east [rear] of Cromwell Road and to the north of Edgecombe Lane. It is currently greenfield, although the applicants appear to believe it is previously developed. It is 0.52ha in extent and is L shaped. The eastern boundary is very steeply sloped as the site visit will have indicated. On the north, west and south boundaries there is well established housing, and to the east lies the former Newbury to Wantage rail line. One dwelling [Highbank House] lies in the cutting.
- 5.1.2 It is proposed to erect 7 dwellings on the site. Plot 1 will be 4 bed detached dwelling, plots 2 and 3 will be 3 or 4 bed detached, as will plots 4 and 5m with varying degrees of parking, whilst plots 6 and 7 will be a pair of semi detached dwellings. Each dwelling will have 3 parking spaces in curtilage. In addition there is to be a new vehicular link for No. 11 Edgecombe Lane into the site: it currently has nil vehicle access. Nos. 9 and 10 Edgecombe Lane will have further access to the north, for vehicles. The sole access into the site will be onto Cromwell Road in the west. This was achieved via the demolition of No. 38 Cromwell Road. Amended plans have been submitted to indicate a 1m buffer strip to the north along Orchard Close, adjacent the northern boundary internal access road.
- 5.1.3 The dwellings in question will be two storey only and be of attractive, vernacular design. The site is to be fully landscaped, with the steep bank to the east being open space, with additional tree planting. The applicant has helpfully submitted cross sectional plans which show clearly not only existing AOD levels of surrounding dwelling ridges, but also the proposed ridge levels. This puts the application scheme in visual context, having regard to the surrounding vicinity. None of the dwellings will for affordable purposes.

6.0 Consideration of the scheme.

The application falls to be examined under the following issues –

- 6.1. Policy
- 6.2. Affordable housing
- 6.3. Other issues

6.1 Policy

- 6.1.1 The Committee will know that the HSADPD was formally adopted on 9 May 2017. Inter alia, policy C1 corresponds to new housing in settlements, which will have an automatic presumption in favour, subject naturally to other policies being satisfied. Unlike policy HSG1, now formally superseded, this policy provides no direct criteria against which new housing should be assessed against. Accordingly, it is the advice in the NPPF and the NPPG to which the Committee should turn, in regards not to the principle of the scheme, but the detail.

- 6.1.2 One first concern is density. At just the equivalent of 14 units per ha this is low; the NPPF points to normal minimum densities of between 30 and 50 units per ha for settlements, unless specific policy or physical constraints apply. In this instance, no listed buildings or conservation areas are involved, nor are there specific ecological constraints. In this case the development has been restricted by the physical nature of the site, being of unusual shape and being steeply banked in places. The amenities of surrounding residents must also be taken into account, and the internal access road. In this case the officer is content that the points above do merit the lower density, albeit the most efficient use of land is not being acquired. This is a balanced view, having regard to the extant permission in place for 12 dwellings on the site. [24 units per ha].
- 6.1.3 The second concern is the potential impact upon local amenity. Officers have carefully examined the submitted layout in terms of interrelationships with surroundings and internally. So, for example, the distance between plot 1 and Nos. 26 and 27 Orchard Close to the north is in excess of 11m [flank wall to rear] whilst that of plot 2 to No. 25 is 10m [flank wall to side]. The flank to flank distance between plot 4 and No. 11 Edgecombe Lane is 3m whilst from the rear of plot 4 to the side of No. 7a Edgecombe Lane is 12m. These separations are all considered to be satisfactory. In terms of internal separation, the minimum back to back distances between plot 3 and 4 is 21m, whilst that between plot 1 and 2 is 24m. The case officer has also examined the submitted levels and has concluded that these are acceptable. For example, only plot 2 will have a marginally greater ridge height [86.8m aod] than Nos. 9 - 11 Edgecombe Lane at 86.4m aod. It is recognised however that the dwelling most impacted to a degree will be No. 7a [ridge height 82.87m aod] but this is to the south of the application scheme which is of benefit. Overall, it is not considered that local amenity will be harmed to any substantive degree to merit rejection of the application. A degree of overlooking and overshadowing has to be expected in normal urban situations.
- 6.2 Affordable housing.
- 6.2.1 Members of the Committee will be well aware that there has been much National debate in planning policy circles about the required minimum threshold to be applied to new housing schemes, having regard to affordable housing provision. Policy CS6 in the adopted Core Strategy is quite clear in stating that on schemes of between 5 and 9 dwellings [net gain] the Council will apply a 20% rate, preferably on site, or if necessary, via off site provision. In this instance one unit would be required for the 7 units proposed. [1.4 rounded down]. This was to be one of the semi detached pair on the site, which the Council was to take over as an RSL would not become responsible for one "isolated" dwelling. However, the applicants have submitted a viability assessment noting that if the normal developer profit of 15% is to be applied, no affordable housing can be provided either on or off site. The Council has had this assessment independently assessed and the applicants conclusions have been accepted. Indeed given the relatively high land price identified, the developer profit may well fall below the 15% level in any event. In this case, accordingly, despite the significant need for affordable housing in the District the Council is unable to attain the contribution, given the advice in para 173 in the NPPF on viability. The precise figures supporting this conclusion cannot be released into the public domain as the information is commercially sensitive. The Development Control Manager has however concluded that no part 2 item is required for this detail. Accordingly, if the application is approved, it will have no s 106 obligation attached to it for this purpose.
- 6.3 Other issues.
- 6.3.1 The Committee may recall that when the previous extant permission was approved, ecological matters were of some importance on the application site, given that it had been a greenfield habitat for some considerable period of time. Various surveys undertaken on behalf of the applicant identified historical populations of one great crested newt, a badger sett and reptiles including slow worms and one grass snake. These are all protected

species under the relevant legislation such as the Wildlife and Countryside Act of 1981. Since 2014, it has been concluded from surveys undertaken in the Spring of 2016, that the probability of any newt or badgers being on site is minimal, if not almost zero. However reptiles are still likely to be present on the south and east portions of the site.

- 6.3.2 Accordingly, the applicant is proposing a reptile refuge area on the grassed bank on the east of the site, outside any dwelling curtilages, which will be protected by special fencing. This can be conditioned. This will be erected during the construction phase but dismantled after so public access can be gained to the area, post occupation. It is considered that these ecological issues are thus satisfied in terms of habitat protection and future management, and so meet the tests as set out in policy CS17 in the adopted Core Strategy.
- 6.3.3 Another potential issue on site is flooding, given the increase in developed area which will result, should the application be permitted, and built out. Notwithstanding the extant permission in place, it remains important that drainage and flooding issues are duly reconciled on site, given the local history of overland flooding in the area in 2007, and some of the objectors concerns. The Council SUDS officer has been duly consulted and is maintaining an objection to the scheme. The site lies in a little depression, so fluvial flows during heavy rainfall will need to be addressed, in order to ensure no problems for the existing dwellings downstream, to the south. He is also worried about future maintenance of the adopted highway, as the applicant is proposing pavements as the road surface. The case officer is satisfied that notwithstanding this objection, it is firstly possible that in the future the road may not be adopted in any event, and secondly if a comprehensive pre condition re SUDs is applied to any permission this will ensure no problems regarding drainage will arise in the future.
- 6.3.4 One of the main issues raised by local residents in the last application was the proximity of the proposed internal access route on the northern boundary, adjacent 25-27 Orchard Close. This would be potentially exacerbated by the gradients involved, falling to the north. The amended plans have re aligned the road 1m to the south away from the boundary edge. It is also clearly recognised in civil [not planning] property legislation that damage on boundaries caused by development to adjoining ownership, is ameliorated, so any retaining structures required will be the cost and responsibility of the developer: this cannot be conditioned by this permission if outside the red line.

7. Conclusion

- 7.1.1 All planning applications are required to be determined having regard to the three tenets of sustainability in the NPPF. In economic terms, the proposal is to be encouraged, as not only will the local construction industry be given a boost [a SME probably given the small nature of the scheme], but the new occupants will assist in supporting the local Newbury economy to a minor degree, over time. There will in addition be CIL charges of £63,600. In social terms the benefits are neutral, particularly as nil affordable housing can be attained. In environmental terms, it is self evident that there will be a loss of a green lung in the vicinity, and some loss of ecological habitat. On the other hand, it is considered that the introduction of these 7 dwellings will not harm the local area character, being an appropriate scale and form of building, well designed and laid out.
- 7.1.2 Given the strong reasons to accept the application, officers recommend that a conditional permission is fully justified in this instance, having regard to the foregoing.

8. Recommendation.

The Head of Development and Planning be authorized to GRANT Conditional Planning Permission.

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

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

Amended plans

2. The development must be carried out in accord with the amended plans received on the 9th February 2017 - plan number DP.110c dated 24.10.16, Plan numbers DP.101, 102, 103 and 104, plus plan number DP.111B.

Reason: To ensure the development is built as approved to clarify the permission.

Materials.

3. 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 C1 in the Adopted HSADPD of May 2017.

Hours of work.

4. The hours of work for all contractors for the duration of the site development shall unless otherwise agreed by the Local Planning Authority in writing shall be limited to:

7.30 am to 6.00 p.m. on Mondays to Fridays 8.30 am to 1.00 p.m. on Saturdays and NO work shall be carried out on Sundays or Bank Holidays.

Reason: In the interests of the amenities of neighbouring occupiers in accord with saved policy OVS6 in the WBDLP 1991 to 2006.

Contamination.

5. 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 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:

o human health,

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

o adjoining land,

o groundwaters and surface waters,

o ecological systems,

o 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 NPPF.

Refuse storage.

6. 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 dwellings shall not be occupied until the refuse and recycling 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).

CMS

7. 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).

Road layout.

8. The detailed layout of the site shall comply with the Local Planning Authority's standards in respect of road and footpath design and vehicle parking and turning provision and the Developer to enter into a S278/S38 Agreement for the adoption of the site. This condition shall apply notwithstanding any indications to these matters which have been given in the current application.

Reason: In the interest of road safety and flow of traffic and to ensure waste collection. 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).

Visibility splays.

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

Reason: In the interests of road 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).

Parking.

10. 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).

Cycle parking

11. No dwelling shall be occupied until the cycle parking has been provided in accordance with the approved drawings and this area shall thereafter be kept available for the parking of cycles at all times.

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

Fencing - trees.

12. Protective fencing shall be implemented and retained intact for the duration of the development in accordance with the tree and landscape protection scheme identified on approved drawing(s) numbered plan Tree Protection Plan rev E dated November 2016. Within the fenced area(s), there shall be no excavations, storage of materials or machinery, parking of vehicles or fires.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the NPPF and Policies CS14, CS18 and CS19 of West Berkshire Core Strategy 2006-2026.

Watching brief.

13. No development shall take place (including site clearance and any other preparatory works) until the applicant has secured the implementation of an arboricultural watching brief in accordance with a written scheme of site monitoring, which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the NPPF and Policies CS14, CS18 and CS19 of West Berkshire Core Strategy 2006-2026.

Tree protection.

14. No trees, shrubs or hedges shown as being retained on tree survey Tree Protection Plan rev E dated November 2016 shall be pruned, cut back, felled, willfully damaged or destroyed in any way without the prior consent of the local planning authority. Any trees, shrubs or hedges felled, removed or destroyed, or any that dies, become seriously damaged or diseased within five years from completion of the approved development, shall be replaced with the same species in the next planting season unless the Local Planning Authority gives written consent for any subsequent variation.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the NPPF and Policies CS14, CS18 and CS19 of West Berkshire Core Strategy 2006-2026.

SUDS

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

- a) Incorporate the implementation of Sustainable Drainage Methods (SuDS) to provide attenuation to greenfield run-off rates and volumes;
- b) Be informed by a full ground investigation survey, details of which shall be included within the submission;
- c) Include construction drawings, cross-sections and specifications of all hard surfaced areas within the site;
- d) Include the storage capacity for the proposed surfacing materials based on a 1 in 100 year storm +30% for climate change;
- e) Provide benefits, where possible, such as water quality, biodiversity and amenity.

The sustainable drainage measures shall be implemented in accordance with the approved details before any of the dwellings hereby permitted are occupied. The sustainable drainage measures shall be maintained in the approved condition thereafter.

Reason: To ensure that surface water will be managed in a sustainable manner. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS16 of the West Berkshire Core Strategy (2006-2026), and Part 4 of Supplementary Planning Document Quality Design (June 2006).

Cms

16. No development shall take place until the works identified in the J Taylor updated construction mitigation method statement for protected species dated November 2016, have been implemented in full, and maintained during the construction phase to the satisfaction of the LPA.

Reason: To ensure the protection of any species on the site, in accord with policy CS17 in the Core Strategy for West Berkshire dated 2006 to 2026.

INFORMATIVE:

- 1 The development hereby approved results in a requirement to make payments to the Council as part of the Community Infrastructure Levy (CIL) procedure. A Liability Notice setting out further details, and including the amount of CIL payable will be sent out separately from this Decision Notice. You are advised to read the Liability Notice and ensure that a Commencement Notice is submitted to the authority prior to the commencement of the development. Failure to submit the Commencement Notice will result in the loss of any exemptions claimed, and the loss of any right to pay by

instalments, and additional costs to you in the form of surcharges. For further details see the website at www.westberks.gov.uk/cil

- 2 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.

DC