

<b>Item No</b>	<b>Application No. and Parish</b>	<b>8/13 week date</b>	<b>Proposal, Location and Applicant</b>
(2)	17/00939/FUL Shaw Cum Donnington PC	12 <sup>th</sup> July 2017 Extension of time arranged to 31 <sup>st</sup> August 2017.	Change of use of half a section of orchard land to garden use. Erection of Oak framed car port and turning area.  The Barn Highwood Farm, Long Lane, Shaw, Newbury, Berkshire  Mr Bjian and Marianne Mohandes

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

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=17/00939/FUL>

**Recommendation Summary:**      **The Head of Development and Planning be  
authorise to REFUSE planning permission**

**Ward Member(s):**                      P.E. Bryant  
M. R. Franks

**Reason for Committee  
Determination:**                      Ward Member call-in by Cllr. Bryant if the case officer  
is likely to recommend refusal.

Site visit requested.

Call in reason: The proposal is to construct a garage in  
an old orchard outside the curtilage of The Barn but on  
land under the ownership of the applicant. It is  
technically in open countryside but the site visit will  
show that the land is in an un-maintained orchard and  
will cause little harm.

**Committee Site Visit:**                      23<sup>rd</sup> August 2017

**Contact Officer Details**

**Name:**    Mr. Matthew Shepherd  
**Job Title:**    Planning Officer  
**Tel No:**    (01635) 519111  
**E-mail Address:**                                      Matthew.Shepherd@westberks.gov.uk

## 1. Site History

74/01922/ADD. Erection of agricultural dwelling. Refuse 12.02.1975.

75/03143/ADD. Station a caravan to provide accommodation to facilitate the work of the land for horticultural purposes. Refuse 10.09.1975.

79/11165/add. Overhead high voltage line and proposed pole transformer to Highwood farm in the parish of Shaw cum Donnington and cold ash in the county of Berkshire. Cannot be determined.

80/014303/ADD. Conversion of the outbuildings into a dwelling. Refused 14.01.1981.

82/16963/ADD. Conversion of eastern end of cow shed to boarding cattery for 20 cats. Approved 12.05.1982.

01/00187/HOUSE. Single storey side extension to form new kitchen and cloakroom. Approved 22.05.2001.

04/00806/OUT. Conversion to residential of redundant farm buildings. Withdrawn 22.04.2004.

06/00174/FLUD. Conversion of car shed into arts and crafts studio (non commercial) and adjoining barn into one bedroom guest accommodation. Approved 03.04.2006.

13/03162/CERTE. Change of use of land to garden area. Refuse 13.02.2014.

14/02664/FLUD. S73- Variation of condition 5 ancillary to residential use, approved reference 06/00174/FLUD, conversion of car shed into arts and crafts studio (non commercial) and adjoining barn into one bedroom guest accommodation. Invalid 28.11.2014.

14/02925/FLUD. S73- Variation of condition 5 ancillary to residential use, approved reference 06/00174/FLUD, conversion of car shed into arts and crafts studio (non commercial) and adjoining barn into one bedroom guest accommodation. Approved 04.03.2015.

15/002106/CERTE. Change of use of land to garden area. Refuse 28.10.2015.

## 2. Publicity of Application

Site Notice Expired: 05/07/2017

## 3. Consultations and Representations

**Shaw Cum Donnington Parish Council:** No objection to erection of garage but objections to change of use from orchard land to garden use.

**Highways:**

No objection. The existing access is unaffected by the proposal. Condition suggested.

**Ramblers  
Association**

No response by 16/08/2017

**Cold Ash Parish  
Council (Adjoining  
Parish)**

No response by 16/08/2017

**Tree Officer**

I have visited the site and assessed the details submitted. Whilst a topography plan has been submitted showing the position of specimen trees and the existing trees and hedge screening along the bridleway, no further landscaping or details of foundations have been provided.

Currently there would be concerns over the potential impact of the new gravel driveway and foundations of the carport impacting in particular the mature walnut tree in the rear garden and the existing hedge screening and younger trees along the bridleway edge. In addition, the potential increase in traffic movements within the site could lead to further harm

There may be other surfacing solutions which would be less invasive within the area than the proposed gravel drive, however, it is noted that there appears to be areas of previous building rubble and hardcore within the proposed area which may need re-levelling.

The existing trees and sparse former hedge would benefit from some remedial works and infilling with new hedging alongside the bridleway within the property boundary.

Conclusions: There is currently insufficient information submitted with the application. However, appropriate conditions could be applied which are attached. In addition, consideration is given to the changes in levels and the potential impact of this on the existing trees and screening along the bridleway.

**Newbury Town  
Council (Adjoining  
Parish)**

No response by 16/08/2017

**Public Rights of Way**

Bridleway 3 Shaw forms part of the proposed access.

Private rights of vehicular access are required in order to use a vehicle legally along a public right of way. I am assuming such rights are existing and attached to the main Highwood Farm property.

There might be an adverse effect on the surface of the bridleway as a result of construction, and then access to and from the new garage. However, any surface problems caused as a result of private vehicular access will be required to be remedied by those using the access.

I have no objection to the application provided informatives are applied

**Environmental Health**

No comments

**Correspondence:**

No letters of support or objection received.

**4. Policy Considerations**

4.1. The planning system is plan-led, which means that planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The West Berkshire Development Plan comprises:

- The West Berkshire Core Strategy 2006-2026
- The West Berkshire District Local Plan 1991-2006 Saved Policies 2007
- The West Berkshire Proposed Housing Site Allocations (DPD)
- The South East Plan 2009 insofar as Policy NRM6 applies
- The Replacement Minerals Local Plan for Berkshire 2001
- The Waste Local Plan for Berkshire 1998
- Supplementary Planning Documents and Guidance

4.2. In this instance, the following policies of the Development Plan are considered relevant to the proposal.

- Area Delivery Plan Policy 1 Spatial Strategy
- Area Delivery Plan Policy 2 Newbury
- CS 13 Transport
- CS 14 Design Principles
- CS 17 Biodiversity and Geodiversity
- CS 19 Historic Environment and Landscape Character

4.3. West Berkshire Housing Site Allocations Development Plan Document (November 2015)

- C 6 Extension of Existing Dwellings within the Countryside
- C 8 Extension of Residential Curtilages

- 4.4. The West Berkshire Core Strategy replaced a number of Planning Policies in the West Berkshire District Local Plan 1991-2006 Saved Policies 2007. However, the following policies remain in place until they are replaced by development plan documents and should be given due weight according to their degree of consistency with the National Planning Policy Framework.
- TRANS 1 Meeting the Transport Needs of New Development
  - OVS.5 Environmental Nuisance and Pollution Control
  - OVS.6 Noise Pollution
- 4.5. The Core Strategy was adopted after the introduction of the NPPF and provides an up to date framework for development planning in West Berkshire which is consolidated by the West Berkshire Housing Site Allocations (DPD) (November 2015). Supplementary Planning Guidance;
- Quality Design (June 2006)
  - Community Infrastructure Levy (CIL) Charging Schedule
- 4.6. Other Material Considerations
- National Planning Policy Framework (March 2012)
  - Planning Practice Guidance (March 2014)

## **5. Description of Development**

- 5.1. The proposed development is the change of use of half a section of orchard land to garden use. Erection of oak framed car port and turning area at the property The Barn, Highwood Farm, Long Lane, Shaw.
- 5.2. The application that subdivided Highwood Farm in 2015 (reference 14/03042/FLUD) defined the domestic curtilages in the approved plan "Proposed subdivision of plots shown on drawing 1069928-15-07 received via email dated 3<sup>rd</sup> March 2015". This application for the subdivision of the farm notably raised no objection from the highways department who comments were "I do not however have concerns over the overall level of car parking at the site" contained within the delegated report.
- 5.3. As noted in aerial photographs the area to the front of The Barn was clear and gravelled, displaying an adequate area for parking. Aerial photographs and site photo now show this area to be altered with a degree of residential garden area being present.

## **6. Consideration of the Proposal**

- Extension to the Residential Curtilage
- Extension of Existing Dwellings within the Countryside
- The Impact on Neighbouring Amenity
- The Impact on Biodiveristy and Geodiveristy on site
- Highways Implications
- Other Matters

## **7. Extension to the Residential Curtilage**

- 7.1. Policy C8 states that extensions to existing residential curtilages will only be permitted where it can be shown that there is no adverse impact on the character and local distinctiveness of the rural area, the setting of the property or encroachment on the rural area, public footpaths and on the amenity of local residents. It goes on to state that proposals will be considered where:-
- It is required to provide parking in the interest of highways safety
  - To realign a garden boundary or extend a garden to achieve a similar level of provision to other dwellings in the immediate area.
- 7.2. The case officer has received correspondence in response to policy C6 from the applicant. In response to section (i). of the policy, the applicant argues there is insufficient parking available at peak times for visitors. This leads to visitors parking on the bridleway causing obstruction. The space available on the site does not allow car ports to be built either, in the applicant's opinion.
- 7.3. The case officer has performed a site visit and has viewed aerial photographs of the site. He notes that the area to the front of the Barn was shown to be entirely driveway in aerial photographs submitted in the application for the properties subdivision reference 14/03042/FLUD. This area was gravelled and led to the garages to the west of the site. This area, formerly used for parking has now been utilised as domestic garden space with patio chairs and a garden area has been constructed. The case officer is aware that beyond this garden area is the original garage which upon site visit was used for storage of domestic gardening equipment. This could easily allow for a car port of adequate size on site if redeveloped. During the site visit three cars were parked to the front of the property none of which were obstructing the PROW. This would meet the requirements of parking policy P 1 of the West Berkshire HSADPD for a property in this area.
- 7.4. The parking currently enjoyed on the site is not perceived to cause highways' safety issues, as it is far away from the carriage way. The applicant does not provide any evidence that there have been complaints, issues, or incidents with public rights of way users in regards to parking. The policy does not consider a need for visitor parking to be justification for the extending the residential curtilage.
- 7.5. The case officer would also like to make Members aware that informal parking arrangements for visitors up to 28 days a year are allowed under permitted development rights. These rights could be utilised for peak visitor times.
- 7.6. Section (ii) of the policy states proposals for extensions to curtilages will be considered where it realigns a garden boundary or extends a garden to achieve a similar level of provision to other dwellings in the immediate area. The curtilage of the two properties was proposed by the applicant in application 14/03042/FLUD for the subdivision of the two properties. As referenced earlier the subdivisions are similar in size and benefit from generous plot sizes. The areas to the front of both properties lead to the garages and allowed for adequate parking at the time of subdivision, as shown in aerial photographs. The applicant has chosen to reduce the degree of parking on site by installing a front garden area for personal

enjoyment. The neighbouring property has retained its parking and driveway adjoining the garaging to the front of the house and does not suffer from the related reduced parking issues the applicant has put themselves in.

- 7.7. The supporting text of policy C8 states that inclusion of extension to non-residential land used for woodland can have significant urbanising effect due to the change of use. The large degree of hard surfacing and turning area has negative effect on what is an established wooded area. The change from grass / woodland that appears undisturbed and pleasant at the moment from the adjoining PROW, to a car port and a substantial degree surfacing would have an adverse impact on the character of the area. The change would be noticeably and harmful to the countryside character of the area.
- 7.8. Although the applicant has amended the proposal to reduce the size of the change of use to just the car port and turning area this was supported by the local Ward Member. Officers consider that the reduction in size does not mitigate the harm of the proposal. The smaller curtilage is still contrary to policy and divides the field even further and more notably, differently to adjoining neighbouring curtilages.
- 7.9. The applicant has suggested acceptable entrance and boundary treatments, specific details of these can be obtained by condition, additionally the surfacing of the turning area the applicant has been informed by suggestions made by Officers. Although these details are suitable, they do not justify the proposal which has little policy support.
- 7.10. The case officer finds little justification for the extension of the curtilage and as such cannot find support for the proposal within policy C8. There is no need for the extension to allow parking in the interests of highway safety. The only changes as seen by aerial photos and site visits is the creation of a front garden to the previous parking area. The curtilages as submitted in the 2014 application are similar and were considered acceptable by the applicant at the time of sub division. The case officer cannot find justification for the extension to the curtilage in this regard. The harm the proposal will bring to the rural character of the area is clearly contrary to policy. It is therefore considered the change of use is contrary to Policy C8 of the West Berkshire Housing Site Allocations Development Plan Document (November 2015).

## **8. Extension of Existing Dwellings within the Countryside**

- 8.1. The proposed car port must be considered despite the change of use section of the proposal being found unacceptable.
- 8.2. Policy C6 states that there is a presumption in favour of proposals for extensions to existing dwellings. The extension of the dwelling is through a car port. The car port as submitted is of wooden construction, it has two car port parking areas and a tool shed / enclosed area. The elevation drawings submit show dropped eaves towards the rear of the car port is utilised adding to the rural design. The car port is large in footprint but it sits below the ridge height of the original dwelling. The design is considered to be acceptable.
- 8.3. The second section of C6 states that proposals should not have an adverse impact on the setting, the space occupied within the plot or the rural character of the area.

Due to the proposal falling outside the domestic curtilage and the proposed extension to the curtilage being considered unacceptable, as explained earlier in the report, the proposal is considered to have an adverse impact on the rural character of the area and the space occupied within the plot of the domestic curtilage. It does however, not have an adverse impact on any historic interests of the original property. It is clearly unacceptable to permit an extension to a domestic property through an outbuilding that falls outside of the dwellings domestic curtilage. This does not respect the boundary or the space the property occupies and is therefore contrary to policy.

- 8.4. The proposed materials to be used in the proposal are not considered to have an adverse impact and are therefore in accordance with section (iii) of C6.
- 8.5. The last section of policy C6 is that there is no significant adverse impact on the living conditions currently enjoyed by adjoining residential properties. Due to the isolated nature of the site, and the siting of the proposed garage away from the neighbouring amenity, the proposed garage is not considered to have an adverse impact on neighbouring amenity.
- 8.6. The case officer therefore finds, despite the acceptable design proposed, the siting of the proposed car port outside of the domestic curtilage results in the proposal not being in accordance with section (ii) of policy C6 due to the proposal having an adverse impact on the setting, the space occupied and the local rural character due to it falling outside the domestic curtilage.
- 8.7. The proposal is therefore recommended for refusal as it is contrary to policy C6 of the West Berkshire Housing Site Allocations Development Plan Document (November 2015).

## **9. The Impact on Neighbouring Amenity**

- 9.1. Policy CS 14 of the West Berkshire Core Strategy (2006-2026) requires a high quality and sustainable design from all new development that enhances the character of the area making a positive contribution to the quality of life in West Berkshire. The policy goes on to state that amongst other elements new development should have regard not to just the immediate area, but the wider locality.
- 9.2. As noted earlier due to the location of the proposed development away from neighbouring properties the impact on the neighbouring amenity from the proposal is minimal. Despite this the proposal is still unacceptable in terms of the countryside policies of the West Berkshire HSADPD (November).

## **10. The Impact on Biodiversity and Geodiversity on site**

- 10.1. The Tree Officer has visited the site and assessed the details submitted. Whilst a topography plan has been submitted showing the position of specimen trees and the existing trees and hedge screening along the bridleway, no further landscaping or details of foundations have been provided.
- 10.2. Currently there would be concerns over the potential impact of the new gravel driveway and foundations of the carport impacting in particular the mature walnut



tree in the rear garden and the existing hedge screening and younger trees along the bridleway edge. In addition, the potential increase in traffic movements within the site could lead to further harm.

- 10.3. There may be other surfacing solutions which would be less invasive within the area than the proposed gravel drive, however, it is noted that there appears to be areas of previous building rubble and hardcore within the proposed area which may need re-levelling.
- 10.4. The existing trees and sparse former hedge would benefit from some remedial works and infilling with new hedging alongside the bridleway within the property boundary.
- 10.5. In conclusion, there is currently insufficient information submitted with the application. However, appropriate conditions could be applied that result in the proposal being in accordance with CS17 of the West Berkshire Core Strategy (2006-2026). In addition, consideration is given to the changes in levels and the potential impact of this on the existing trees and screening along the bridleway.

## **11. The Impact on Highways**

- 11.1. The Highways Department are of the opinion that the application is acceptable subject to conditions. They commented that the existing access to the carriage way is unaffected by the proposal. The proposal is therefore considered in accordance with CS13 of the West Berkshire Core Strategy (2006-2026) and P1 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015).

## **12. Other Matters**

- 12.1. Presumption in favour of sustainable development
- 12.2. The National Planning Policy Framework places a strong emphasis on sustainable development. All planning applications must result in sustainable development with consideration being given to economic, social and environmental sustainability aspects of the proposal.
- 12.3. The scheme has very limited economic considerations beyond the short term benefit the construction of the car port will bring.
- 12.4. The application is not considered environmentally or socially sustainable. The proposal is clearly contrary to policy to which planning decision should be policy lead unless other material considerations dictate. The case officer finds the encroachment on the countryside through urbanising a historically wooded area without proper justification or policy support is clearly unsustainable to future decisions. The case officer therefore finds the proposal not to constitute sustainable development the golden thread that must run through all planning decisions.
- 12.5. Paragraph 203 of the NPPF is clear that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The NPPF goes on to state at paragraph 206 that conditions should only be imposed where they are necessary; relevant to planning and; to the

development to be permitted; enforceable; precise and; reasonable in all other respects. It is also clear that whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. In this case no conditions can overcome the harm from the encroachment on the countryside that the extension to the residential curtilage will bring. Although conditions have been suggest by the Highways Officer and Tree Officer these do not overcome the issue that the proposed extension to the residential curtilage and Carport are clear contrary to policy.

- 12.6. The proposed floor space created is less than 100 square metres and therefore not liable for a CIL charge.

### **13. Conclusion**

- 13.1. In conclusion, the application for the change of use of a section of orchard to garden land and the erection of an oak car port is found to be unacceptable. The change of use of the land is contrary to both sections of Policy C8 where proposals will be considered, to provide parking off the highway and to realign the domestic curtilages with adjoining curtilages. In addition the car port is found to be contrary to C6 as it fails to respect the spacing and space occupied within the domestic curtilage due to it falling outside of the domestic curtilage. It therefore has an adverse impact on the plot boundary. The large degree of hard surfacing compared to the original wooded area would have an adverse affect on the rural character of the area and adjoining Public Right of Way.
- 13.2. The proposal is therefore contrary to C6 and C8 of the West Berkshire Housing Site Allocation DPD (November 2015) and is recommended that planning permission be refused.

### **14. Full Recommendation**

- 14.1 The Head of Development and Planning be authorised to **REFUSE** planning permission.

DC

## **Refusal - Contrary to C8**

Policy C8 of the West Berkshire HSADPD states that extensions to existing residential curtilages will only be permitted where it can be shown that there is no adverse impact on the character and local distinctiveness of the rural area, the setting of the property or encroachment on the rural area, public footpaths and on the amenity of local residents. It goes on to state that a proposal will be considered where

- It is required to provide parking in the interest of highways safety
- To realign a garden boundary or extend a garden to achieve a similar level of provision to other dwellings in the immediate area.

The site benefits from ample parking space. The area of former parking has been utilised as garden reducing the degree of parking. Despite this ample parking is still provided for three vehicles clear of the carriageway. The boundaries of the two adjoining are similar to each other and the proposal does not present justification for re-alignment. The extension of domestic curtilage has a harmful urbanising and encroaching impact on the open countryside. This will have an adverse impact on the rural character of the area through demonstrable domestication of open countryside.

The application is therefore contrary to C8 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015), CS14 and C19 of the West Berkshire Core Strategy (2006-2026), and National Planning Policy Framework (March 2012).

## **Refusal - Contrary to C6**

Policy C6 states that extensions to permanent dwellings in the countryside will be supported where there is no adverse impact on: the setting, the space occupied within the plot boundary, on local rural character. The proposed car port is found not to accord with the section (ii) of C6 of the West Berkshire HSADPD due to it falling outside of the domestic curtilage. This does not respect the setting of the domestic house as it extends the curtilage, it does not respect the plot boundary by proposed built form outside of the original curtilage. It also has an adverse impact on the rural character of the area by extending the domestic curtilage and changing the wooden areas character to a domestic one with a large amount of hard surfacing. This will have a demonstrable domestication of open countryside to the detriment of the rural character of the area.

The application is therefore contrary to C6 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015), CS14 and C19 of the West Berkshire Core Strategy (2006-2026), and National Planning Policy Framework (March 2012).

DC