

**WESTERN AREA PLANNING COMMITTEE  
ON 4<sup>TH</sup> APRIL 2018**

**UPDATE REPORT**

**Item No:** (1)                      **Application No:** 18/00223/FULD                      **Page No.** 39-58

**Site:** Land adjacent to Morphe, Downend Chieveley

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**Planning Officer Presenting:** Derek Carnegie

**Member Presenting:**

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**Parish Representative speaking:** Councillor Mike Belcher

**Objector(s) speaking:** Mr Richard Griffiths

**Supporter(s) speaking:** N/A

**Applicant/Agent speaking:** Mr Mark Campbell

**Ward Member(s):** Councillor Hilary Cole

**Update Information:**

P. 1 - Recommendation summary should read: The Head of Development and Planning be authorise to APPROVE planning permission.

**3.1 Consultations**

**PROW additional comments:** In addition to original consultation comments, have sought legal advice on Land Registry documents. Both mention rule 254 of the Land Registration Rules 1925. It seems that the Land Registry was not satisfied with the evidence for access rights that was presented on registration. This does not mean that there was no legal easement validly granted (and subsisting) at the date of registration. There may have been lack of certainty as to the land benefiting from any right.

The footpath appears to be unregistered, and therefore there is the presumption that owners either side own up to the centre line. These owners have the power to grant rights of access to the site.

PROW Officer was asked whether S342A of the Road Traffic Act 1988 confers rights in vehicles. This section of the Act applies only to roads classified as public paths which by virtue of CROW 2000 became restricted byways,

so is not relevant here.

Please note that granting permission is not in any way granting consent to use the footpath without private rights.

Finally, there needs to be a planning obligation to keep the path in adequate repair during construction, and to repair damage at the end of construction. All works to the surface must be approved by the District Council.

Officer comment - Informative recommended advising the applicant that any approval granted does not grant consent for the use of the footpath without private rights.

A condition has already been recommended to be attached to this permission to ensure that it is repaired after construction has been completed. It is not considered to be practicable to require the track to be repaired during construction, and therefore the recommended condition is unchanged.

Informative - The granting of planning permission does not in any way grant consent to use the footpath for vehicular access to the application site without private rights.

**Highways additional comments:** There is sufficient width for a fire appliance (8.6m L) to drive up the track and make the left turn in to the site access. However, the existing gate, or any replacement gate, will need to be moved west 10m from the position of the existing gate. This is to allow a fire appliance to make full use of the entire track and site access as it makes its turn.

The minimum width of any gates must be 3.1m clearance for a vehicle to pass between.

Recommend condition requiring set back of gates.

Officer comment - Recommend combining Highways condition with the existing suggested gate condition as follows:

Any gates to be provided at the site access where vehicles will enter or leave the site shall open away from the adjoining Public Right of Way and be set back a distance of at least 13 metres from the edge of the Public Right of Way. Any such gates must provide a minimum of 3.1m clear opening to allow for emergency access to the site.

Reason: In the interest of emergency access. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026).

DC