

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## WESTERN AREA PLANNING COMMITTEE

### MINUTES OF THE MEETING HELD ON WEDNESDAY, 4 NOVEMBER 2020

**Councillors Present:** Adrian Abbs, Phil Barnett, Dennis Benneyworth, Jeff Cant, Hilary Cole, Carolyne Culver, Clive Hooker (Chairman), Tony Vickers (Vice-Chairman) and Howard Woollaston

**Also Present:** Sharon Armour (Solicitor), Sian Cutts (Senior Planning Officer), Paul Goddard (Team Leader - Highways Development Control), Jenny Legge (Principal Performance, Research and Consultation Officer), Matthew Shepherd (Planning Officer), Anna Smy (Team Manager - Environmental Quality) and Simon Till (Senior Planning Officer)

#### PART I

#### 29. Minutes

The Minutes of the meeting held on 14 October 2020 will be considered at the next Western Area Planning meeting on 11 November 2020.

#### 30. Declarations of Interest

Councillor Hilary Cole declared an interest in Agenda Item (4)2 and 3, and reported that, as her interest was an disclosable pecuniary interest or a other registrable interest, she would be leaving the meeting during the course of consideration of the matter.

Councillor Carolyne Culver declared that she had been lobbied on Agenda Item (4)1.

Councillor Adrian Abbs declared that he had been lobbied on Agenda Item (4)5.

#### 31. Schedule of Planning Applications

##### (1) Application No. and Parish: 20/01226/FUL, Land at Old Station Business Park, High Street, Compton

*(Councillor Carolyne Culver declared a personal interest in Agenda Item 4(1) by virtue of the fact that she had been lobbied on the application and also that the application was within the Ridgeway ward she represented. As her interest was personal and not prejudicial, or a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.)*

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 20/01226/FUL in respect of land at Old Station Business Park, High Street, Compton. The applicant sought retrospective permission for external works, m/e works to include ductwork, steel gantry, external plant, external enclosure (fencing), retaining walls, air handling unit and chiller, gas bottle store, solvent stores all concerning unit 10, 11, 12 (existing building). Building alterations include modifications to internal space planning, revised external door design to fire escape doors, omitting roof lights and glazed top and side panel to entrance doors (front elevation) and two windows on the east elevation at first floor and adjusted soil vent pipes (SVP) positions.
2. Mr Matthew Shepherd, Senior Planning Officer, introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion, the report detailed that the proposal was

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acceptable in planning terms, and officers recommended that the Head of Planning and Development be authorised to grant planning permission, subject to the conditions outlined in the main and update reports.

3. Councillor Clive Hooker asked the Highways Officer if he had any observations relating to the application. Mr Paul Goddard, Team Leader - Highways Development Control, confirmed that he had no highway objections and that previous concerns about loss of parking spaces had been addressed in the latest plans.

### **Removal of Speaking Rights**

4. As resolved at the Extraordinary Council meeting held on 29 April 2020, public speaking rights were removed for virtual Council meetings. This right was replaced with the ability to make written submissions. This decision was made in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020.
5. The above changes to speaking rights were subsequently amended at the Council meeting on 10 September 2020. It was agreed that parties making written submissions in relation to a planning application would be invited to attend the remote meeting of the Planning Committee to answer any questions that Members of the Committee might wish to ask in order to seek clarification on any part of their statement.
6. In accordance with the Extraordinary Council resolution, written submissions relating to this application were received from Mr Keith Simms on behalf of Compton Parish Council, Mr Keith Simms, Mr Peter Jones, Dr and Mrs Vaughan, objectors and Ms Jaymeni Patel, Agent. Those able to attend the remote meeting were, Mr Simms, Mr Jones and Ms Patel.
7. Individual written submissions were published online along with the agenda - <http://decisionmaking.westberks.gov.uk/ieListDocuments.aspx?CId=155&MId=5735&Ver=4>

### **Parish Council's Submission**

8. The Clerk read out the representation. Members did not have any questions relating to the written submission.

### **Objectors' Submission - Summarised**

9. The Clerk read out the representation. Planning officers had summarised the multiple submissions as follows:

#### Mr Keith Simms

- The applicant's own noise report states that the source of the existing noise nuisance cannot be exactly attributed. I would request that conditions are put on this application to a similar specification on then noise generated on the whole site.
- I welcome the limitations on time of use and any assistance in ensuring conditions are complied with.
- The application is retrospective and the units are in use. There is a noise nuisance from this site and we desperately hope it can be resolved by conditions that are enforced.

#### Dr & Mrs Vaughan

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- There has been some improvement as a result of switching off one of the refrigerated containers and some temporary mitigation measures. However, the noise nuisance of a low humming sound that is very intrusive has not gone away.
- The noise has been heard by Tony McEvoy during a visit on 2 October from the land immediately behind our property which he felt was coming from the AHU on units 4-6. The AHI on units 10-12 is basically the same and a significant contribution to the overall noise has now started to come from this direction.
- The noise survey did not establish how much noise this AHU could make under significant load as it wasn't fully operational at that time. I have tried hard to identify the conditions when the noise is worse but I have no information about loading variability at units 10-12. I don't believe Carbosynth know when the play is noise because it runs automatically.
- The solution is to minimise the plant that is required on the site – the time it is on and removal if the function can be off site. A timer switching off the equipment at night and at weekends would still leave a noise nuisance during the working week so mitigation should be the key objective.
- Please could the committee consider placing a condition that measures are installed and demonstrably shown to mitigate noise nuisance by a reasonable date.

### Dr Peter Jones

- Whilst Carbosynth undertakes commendable work and provides employment it nevertheless has a duty of care and responsibility to respect and maintain both the environmental and social well-being of the location which can't be overlooked with new buildings and equipment. This area is designated as AONB and we should do all we can to protect that status.
  - I am specifically objecting to those aspects regarding plant and machinery that create noise that extends beyond the site boundary. Effective and robust mitigation should be a condition to successfully and measurably stop the nuisance noise so the HVAC isn't heard consistently throughout the day and timers switch it off at night, weekends and public holidays.
10. Members asked the following questions relating to the written submission:
  11. Councillor Carolyne Culver asked Mr Simms what he would consider to be acceptable conditions. Keith Simms confirmed that noise was the main issue. He noted there was a constant noise when the units were running and this was worse in summer. He likened the level of noise to that of a large lorry driving up the road through the centre of Compton. He suggested that conditions were needed to control the noise. He felt that the conditions placed on other parts of the site were robust and that similar conditions should be put on this site, since it was unclear where the noise was coming from. He noted that air handling units made more noise as they aged, and asked for maintenance conditions to be imposed.
  12. Councillor Culver asked Dr Peter Jones about the impacts that the site had on him as a local resident. Dr Jones indicated that noise was generated across the whole site, which had kept him awake at night for months. He confirmed that he had installed a fan and bought a white noise machine to drown out the noise. He stated that since the new air handling unit had started up in September, he had struggled to drown out the noise and had been unable to sleep, which was unreasonable.

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13. Councillor Culver asked Dr Jones if he had been forced to leave his house to seek respite and get a decent night's sleep. Dr Jones confirmed that he had used several Airbnb facilities and had also visited his parents in Shropshire. He suggested that his home should be in one of the quietest possible locations, since it was within an AONB in a very rural area.
14. **Agent's Submission**
15. The Clerk read out the representation. Members questioned the attendee as follows:
16. Councillor Adrian Abbs noted that Ms Patel expected the vegetation to attenuate visual and noise impacts and asked for her estimate of this attenuation, once it was fully grown.
17. Ms Patel indicated that the applicant/agent would need to work with Environmental Health Officers and the acoustic consultant to take measurements at regular intervals, once the landscaping had been given a chance to establish. She indicated that there would be less growth through the winter, but suggested that through the condition they would repeat the acoustic survey, thereby giving the landscaping time to become more established, and therefore have more accurate measurements to show its impact.
18. Councillor Abbs asked if, when Ms Patel had made her estimate and decided to plant the trees shown on the plan, she had a number in mind for the noise reduction or had just guessed.
19. Ms Patel confirmed that she had worked on the design with the Council's duty officer. She indicated that additional trees had been planted along the whole western boundary, rather than just remotely against the gable elevation to units 10-12.
20. Councillor Abbs asked if it was a single row or multiple rows of trees that had been planted. Ms Patel replied that the design was not simply plucked out of the air.
21. Councillor Culver asked whether Ms Patel had not thought that the noise aspect was important enough to be mentioned in any great detail within her submission. Ms Patel acknowledged the importance of the noise issue and indicated that she had prepared another written submission on behalf of the client, but this had not been included in the Committee's papers. She indicated that there was further detail within the applicant's submission that had clarified the further remedial works that had been carried out to mitigate the acoustic and visual impact.
22. Councillor Culver noted that members of the public had raised concerns about machine maintenance and asked if there were plans to update the equipment and monitor sound levels as the equipment aged. Ms Patel confirmed that engineers had already provided a plan for regular servicing and remedial works, which would be carried out as required across all of Carbosynth's units.
23. Councillor Jeff Cant asked how the decision had been made regarding the location of the equipment in relation to the nearby residential dwellings and whether it would have been possible to have placed the equipment in another position. Ms Patel confirmed that this would have been investigated at the early feasibility stage with the client brief in mind, and every possible option would have been explored with the client. Councillor Cant asked if this would have been considered with the client and the residents. Ms Patel stated that it would have been considered with the client.

### **Ward Member Representation**

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24. Councillor Culver in representing the Committee as Ward Member made the following points:
- There were concerns about noise relating to this application, and the application discussed at the previous committee meeting.
  - It was unfortunate that the minutes from the last meeting were not available to allow members to refer to conditions added to the previous application.
  - The development was impacting on local people and at least one resident had been forced to leave their home in order to get a decent night's sleep.
  - She was unconvinced about potential noise mitigation from trees, since they would lose their leaves in winter.
  - Conditions were needed to reassure residents that if they had concerns about noise, then Planning Enforcement would undertake noise assessments.
  - These assessments should be carried out at different times of day and in summer as well as winter, since the chillers worked at full tilt in summer.
  - She asked why noise assessments were undertaken at an unusual time of day (between 3am and 7am). This would be challenging for Planning Enforcement to check and a more comprehensive approach was needed.
25. Councillor Hooker asked Mr Shepherd to familiarise himself with the conditions that had been imposed on the previous application to get consistency across both applications.
26. Members had no questions for Councillor Culver.

### **Member Questions to Officers**

27. Councillor Tony Vickers indicated that different people had different sensitivities to particular sound frequencies and that it was a subjective area. He asked how unusual it was to experience a disturbance like Dr Jones's, when noise was within legally acceptable levels.
28. Ms Anna Smy, Team Manager - Environmental Quality, stated that there were currently six or seven low frequency noise complaints. She confirmed that it was not that uncommon, and when someone was tuned into the noise it was difficult to ignore it, particularly when equipment was constantly running. She indicated that only one person in a household may be affected. She confirmed that when looking at statutory noise nuisance, an average person was considered. In this instance, it was a low frequency noise that other residents had heard as well.
29. Councillor Abbs cited page 23 of the Acoustic Report, which referred to an acceptable noise level of 30 decibels for bedrooms, but page 33 stated that low frequency noise levels were between double and quadruple the acceptable noise levels for the sleeping period. Ms Smy confirmed that they would seek to achieve, through effective mitigation, noise levels below the 30 decibel limit set in the British Standard (BS) and World Health Organisation (WHO) guidelines. She stated that the Council was seeking a level of 27 decibels externally, which would reduce what was heard further inside the property, even with windows open.
30. Councillor Abbs noted that the application was retrospective and had been causing problems for almost a year. He asked why this was only being looked at now. Ms Smy indicated that Environmental Health had been consulted as part of the planning application and had looked at the mitigation measures to see if they were reasonable. She stated that they were also looking at it as a nuisance investigation,

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and that previous issues had been addressed in a piecemeal fashion. She confirmed that measurements had shown the BS/WHO standards were being met, but they were just a snapshot in time. She indicated that there was more than one noise source and based on the noise reports and visits undertaken, the proposed conditions were reasonable and achievable.

31. Councillor Culver asked for evidence that the number of trees proposed would provide effective mitigation. Ms Smy explained that trees were not considered within the mitigation. She was looking instead at solid barriers and the height of the noise sources, since trees would not mitigate the effect of exhausts at roof height.
32. Mr Simon Till, Principal Planning Officer, confirmed that trees and vegetation were typically not considered within planning as having a significant mitigating effect on noise.
33. Councillor Howard Woollaston asked if there was any better way to deal with the problem, such as moving the exhaust to a lower level. Ms Smy stated that barriers or fencing would be of benefit if it were at a lower level. She suggested that the proposed mitigation was in line with that proposed at other sites. She explained that now a particular frequency had been identified, it would be easier to address the problem.
34. Councillor Woollaston asked if the noise was coming out of the top of the flue. Ms Smy replied that some noise was associated with reverberation and air flowing through the ducting and some from the exhaust. She explained that the mitigation would address the problem from all angles and needed technical support from the acoustic consultant.
35. Councillor Vickers noted that a building could be approved and assessed as meeting noise requirements at the planning stage, but Building Control would then check it was performing at the expected level. He noted that this application was retrospective for an existing building where building regulations checks were not required, and so mitigation was not put in place before it came into use. He asked if this was significant.
36. Mr Shepherd explained that when previous applications on this site had been approved, the building in its entirety had a condition that no plant should be installed until details were submitted and approved by the local authority. He noted that the applicant had not done this, and so they were seeking approval retrospectively. He explained that enforcement officers had become involved due to complaints from residents, and it had been determined that there had been a non-compliance with the condition, which had triggered this application.
37. Councillor Vickers asked if this related to the application considered at the last committee meeting. Mr Shepherd indicated that the condition related to an approval granted in 2017.
38. Mr Till noted that planning matters did not make significant distinctions between applications for works that had and had not been carried out in terms of relevant considerations. He confirmed that Building Control only checked compliance with building regulations and not with planning permission. He indicated that members should consider whether it would be possible to achieve sufficient acoustic mitigation now that works have been carried out, and he noted that the officer's recommendation was that it would.

### **Debate**

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39. Councillor Abbs noted that the Committee had considered a lot of retrospective applications in recent years. He indicated that he was nervous about the proposed mitigation. He observed that the proposal was to just meet the BS/WHO standard and that a three decibel difference was significant. He highlighted that there had been several years of noise nuisance from the site. He indicated that he would like to seek additional mitigation over and above what had been sought for the last application.
40. Councillor Cant agreed with Councillor Abbs. He noted that another unit on the site, which was not part of this retrospective application, had significantly exceeded acceptable sound levels. He suggested that there was nothing to stop future occupants or changes of use on this site from resulting in a similar situation at other units. He expressed concern that the applicant did not consider the impact on local residents before installing plant in that position. He wondered whether a condition should be considered to impose a timescale for mitigation being implemented, after which enforcement would be initiated.
41. Councillor Dennis Benneyworth agreed with Councillors Abbs and Cant. He suggested that robust conditions should be imposed regarding noise mitigation, including acoustic fencing, and that enforcement would be vital.
42. Councillor Hilary Cole expressed disappointment at having to determine retrospective applications, since it provided little room for manoeuvre. She agreed with previous comments about the need for good acoustic barriers, but could not see a strong case to refuse the application.
43. Councillor Woollaston proposed to support the recommendation, on the basis that it was supported by appropriate conditions. Councillor Cole seconded the proposal.
44. Councillor Hooker sought clarification regarding conditions. Mr Shepherd referred to Condition 5 and noted that the applicant had already submitted details of the proposed noise mitigation measures. He confirmed that these must be installed within one month and subsequently tested to ensure they were effective. He noted that there was a guarantee of plant maintenance to keep noise levels within agreed levels over time. He highlighted Condition 6 (timer system to mitigate noise impacts at night), Condition 7 (external lighting), and Condition 8 (preventing installation of further extractor units). He confirmed that Planning and Environmental Health were satisfied that the proposed conditions were robust and would achieve the required noise levels. He confirmed that the site would be monitored by the parish council and noted that noise nuisance was given a high priority in terms of enforcement. He indicated that the applicant had worked with the Council and the noise level was improving.
45. Councillor Hooker asked if a condition could be included that imposed a time limit for achieving the required noise levels, since the measures may not be effective. Mr Shepherd stated that Condition 5 addressed this point, including triggers for installation and monitoring, and defined locations for measuring the noise to confirm if agreed levels were being achieved. He also confirmed that the timer system had to be installed within two months.
46. Councillor Abbs noted that the required standard in Condition 5 was 36 dB between 7am and 7pm. He noted that page 23 of the Acoustic Report specified 35 dB. He suggested reducing the required level to 33 dB to give some margin of error. He also suggested changing the wording so it applied to noise arriving from the site as a whole.

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47. Mr Shepherd agreed that the required noise level could be adjusted, but the applications needed to be considered individually and the Council could not introduce conditions that relied on areas outside the red line of this application.
48. Ms Smy stated that a reduced level could be sought, but the applicant may need to take extra steps to achieve that.
49. Mr Shepherd confirmed that the required level would be 33 dB.
50. Councillor Cant asked for an addition to Condition 5 to say that should the organisation fail to implement the noise mitigation measures within 28 days that enforcement action would automatically be triggered. Mr Shepherd indicated that the Planning Authority would take that view regardless of whether or not this wording was added to the condition.
51. Councillor Cant suggested that the Council should be explicit on this matter, since this was a retrospective application where the applicant had taken action that had caused suffering for local residents over a significant period of time. He considered that the Council should send a clear message that such behaviour was unacceptable and there would be consequences.
52. Mr Till stated that it was not possible to stipulate via a condition that was active on an applicant that the Council will take enforcement action. He confirmed that officers would note members concerns and that enforcement action would be taken expediently if required. He stated that a condition requiring action by the Council would not be enforceable or reasonable in accordance with the tests specified in the National Planning Policy Framework (NPPF).
53. Councillor Cant suggested that when officers were under pressure, enforcement could be slower than Members would like, and he wanted it to be on record that enforcement action would be swift and just, if the applicant failed to comply.
54. Councillor Culver noted that a maximum level of 36 dB was imposed on the application determined at the previous meeting. She asked if it was possible to insist on 33 dB for that application also. Mr Shepherd stated that it could not, since the details had already been included on the decision list.
55. Councillor Culver noted that the previous application had a condition on the construction of the noise attenuating fence. Mr Shepherd confirmed that this had already been proposed in the mitigation measures and that the applicant would take this on board when they deliver their scheme.
56. Councillor Culver asked if conditions could be proposed to reduce noise at weekends and during public holidays. Mr Shepherd indicated that due to the nature of the business, operation would be minimised at those times anyway and suggested that such a condition would be overly-onerous.
57. Councillor Vickers asked if concerns could be picked up as part of an informative. Mr Shepherd indicated that members' strong views on this matter would be captured in the minutes. He also noted that officers were very aware of these views, and so any enforcement would be done quickly if necessary.
58. Councillor Abbs asked that the dB limit should apply to the full sound spectrum and specifically to the lower frequencies (0-500 Hz), and not an average value. Ms Smy stated that it would be an average level. She noted that the Parish Council's submission suggested using the ISO standard on low frequency noise. She considered that a specific extra clause would be required to address 125 Hz and below.



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59. Councillor Abbs asked that the dB limit should be applied across 0-500 Hz to cover all likely issues.
60. Ms Smy agreed that a condition would be drafted based on the ISO standard covering 0-500 Hz.
61. The Chairman invited Members of the Committee to vote on the proposal by Councillor Woollaston and seconded by Councillor Cole to accept Officer's recommendation and grant planning permission for the reasons listed in the main report and update report, and subject to the amendments proposed by Councillor Abbs. At the vote, the motion was carried unanimously.

**RESOLVED** that the Head of Development and Planning be authorised to **grant** planning permission subject to the conditions listed below:

### Conditions

#### 1. Approved plans

The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:

P152-100 Rev J Location and proposed site plan  
P152-101 Rev J Detailed proposed site and parking layout plan  
P152-200 Rev I Proposed ground floor plan  
P152-201 Rev H Proposed first floor plan  
P152-400 Rev I Proposed south and north elevation plan  
P152-401 Rev I Proposed west side elevation plan  
P152-402 Rev I Proposed east side elevation plan  
001 sheets 1 and 2 Left and Right hand 6.0m Walk-in firevaults  
003 6.0m Walk-in firevaults

HVC Louvre Systems Series AL acoustic louvres document  
Caice Attenuator Schedule document  
Swegon Gold RX/PX/CX/SD Generation F installation function manual  
Central Fans Colasist Ltd data document for Swegon Gold and BlueBox Zeta  
BlueBox Zeta Rev Series A410A document  
Allaway Acoustics attenuation document  
Rosenberg Regel switches and controllers document  
Rosenberg Linefield Rovent 10 axial fan type DQ 315-4 Ex document  
Invertek Drives Optidrive E IP20 & IP66 (NEMA 4X) Installation document

Venta Acoustics Noise Impact Assessment ref VA2752.200710.NIA dated 23 July 2020.

Reason: For the avoidance of doubt and in the interest of proper planning.

#### 2. Landscaping Maintenance

Any of the 20 trees planted as outlined in the letter from Jaymeni Patel Deign dated 6 th August 2020 and Tree Officer's consultation response dated 7 th July 2020 that Page 16 West Berkshire Council Western Area Planning Committee 4 November 2020 die or become seriously damaged within three years of this permission shall be replaced in the next planting season by plants of the same size and species.

Reason: To ensure a satisfactory scheme of landscaping in accordance with the National Planning Policy Framework, and policies ADPP1, CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026

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### **3. Parking in accordance with plans**

Within a month of this permission the vehicle parking and/or turning spaces shall be surfaced, marked out and provided in accordance with the approved parking layout plan. The parking and/or turning spaces 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 in accordance with the National Planning Policy Framework, policy CS13 of the West Berkshire Core Strategy 2006-2026 and policy TRANS.1 of the West Berkshire District Local Plan Saved Policies 2007.

### **4. Ancillary to use of industrial building**

The buildings and structures hereby approved shall be used solely for purposes ancillary to the main use of the site.

Reason: The buildings and structures are acceptable due to the specific nature of the business operating from the site and their separate use would not be acceptable on the site in the interests of amenity and ensuring a sustainable pattern of development in accordance with the National Planning Policy Framework and policies ADPP1, ADPP5, CS10, CS14, CS18 and CS19 of the West Berkshire Local Plan 2006-2026.

### **5. Noise mitigation (amended)**

All of the mitigation measures identified in section 5.2 of the Venta Acoustics Noise Impact Assessment VA2572.191211.NIA dated 11 December 2019 shall be installed within 1 month of this permission and thereafter retained and details confirming installation submitted to an approved in writing by the Local Planning Authority.

The plant noise emissions shall not exceed, when measured at the eastern boundary of the residential properties off Yew Tree Stables, 33dB (LAeq) between 07:00 - 19:00 hours and 27dB (LAeq) between 19:00 - 07:00 hours.

Low frequency noise emitted from the plant shall be controlled so that it does not exceed the Low Frequency Criterion Curve for the 10 to 160Hz third octave bands inside residential accommodation as described in the Defra Procedure for the Assessment of Low Frequency Noise complaints 2005. Should achieving this require additional noise mitigation measures details of the measures shall be submitted within 1 month of this permission, approved in writing by the Local Planning Authority, and installed within 1 month of the details being approved.

The applicant shall liaise with the Local Authority Environmental Health Officer if assistance is necessary in measuring within the properties of residents. If this is not possible agreement must be sought in writing from the Local Planning Authority to provide a suitable acoustic methodology to extrapolate from data monitored at the boundary of residents.

If no additional noise mitigation measures are required a verification report shall be submitted to and approved in writing by the Local Planning Authority within 1 month of this permission demonstrating the noise does not exceed the Low Frequency Criterion Curve for the 10 to 160Hz third octave bands inside residential accommodation. If additional noise mitigation measures are

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required the verification report shall be submitted to and approved in writing by the Local Planning Authority within 1 month of the measures having been installed.

Reason: In order to protect the amenity of adjacent land users in accordance with the National Planning Policy Framework, policies CS14 of the West Berkshire Core Strategy 2006-2026 and OVS.6 of the West Berkshire District Local Plan Saved Policies 2007.

### 6. **Timer system**

Within two months of the date of permission details of a timing control system for the air handling and associated chiller that will prevent that equipment from operating overnight shall be submitted to the Local Planning Authority. Within a month of the details being approved the timing control system shall be fully implemented in accordance with the approved details.

Reason: To ensure that suitable mitigation is put in place to avoid disturbance to neighbouring dwellings in accordance with the National Planning Policy Framework and Policies OVS.5 and OVS.6 of the West Berkshire District Local Plan Saved Policies 2007 and CS14 of the West Berkshire Core Strategy 2006-2026.

### 7. **External lighting (new)**

No additional external lighting shall be installed on site without the prior approval in writing from the Local Planning.

Reason: To protect the amenities of adjoining land users and the character of the area in accordance with the National Planning Policy Framework and policies OVS.5 of the West Berkshire District Local Plan Saved Policies 2007 and CS14 of the West Berkshire Core Strategy 2006-2026.

### 8. **Plant machinery and containers (new)**

No additional extractor units, ducts or other mechanical plant shall be fixed to the external faces or roof of the building or ancillary structures without the prior approval in writing from the Local Planning Authority.

Reason: To protect the amenities of adjoin land users and the character of the area in accordance with the National Planning Policy Framework and policies OVS.5 and OVS.6 of the West Berkshire District Local Plan Saved Policies 2007 and CS14 of the West Berkshire Core Strategy 2006-2026.

## (2) **Application No. and Parish: 20/00761/FUL, Vine Cottage, Curridge Road, Curridge**

*(Councillor Hilary Cole declared a personal interest in Agenda Item (4)2 by virtue of the fact that she was a member of Chieveley Parish Council. As her interest was personal and not prejudicial or a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.)*

1. The Committee considered a report (Agenda Item 4(2)) concerning Planning Application 20/00761/FUL in respect of Vine Cottage, Curridge Road, Curridge. The application related to the creation of an ecological pond, bunds, soakaways, earthworks and a soft landscaping scheme.
2. Ms Sian Cutts, Senior Planning Officer, introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion, the report detailed that previous reasons for refusal

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had been overcome, and the proposal was now acceptable in planning terms and officers recommended that the Head of Planning and Development be authorised to grant planning permission subject to the conditions outlined in the main and update reports.

3. Councillor Clive Hooker asked Mr Stuart Clark, Principal Engineer in the Drainage and Flood Risk Management Team, if he had any observations on drainage and flooding issues relating to the application. Mr Clark confirmed that he had had an assurance from the engineer that the bund would be stable, but Mr Clark required evidence in the form of slope stability calculations. He stated his concerns about the spillway, where in the event that the pond over-topped, the downstream side of the embankment could erode and undermine its stability, so it must be reinforced. He stated that he required details of where the pond would overtop, and how the bank would be reinforced. He indicated that he had previously questioned how the soakaway outlet pipe would be maintained and had suggested a walkway along the top of the bund. However, the proposed barrel-shape to the crest of the bund would make it difficult to walk along. He confirmed that the applicant must demonstrate that the reservoir could be maintained safely. He noted that previous concerns about the location of trees and potential root ingress had been addressed.
4. Councillor Hooker asked Mr Paul Goddard, Team Leader - Highways Development Control, if he had any highway observations in relation to the application. Mr Goddard stated that the bunds were already in place so there would be no issue with spoil being brought to site. He indicated that if Mr Clark was happy there was no threat to the public highway from flooding, then he had no objection.

### **Removal of Speaking Rights**

5. As resolved at the Extraordinary Council meeting held on 29 April 2020, public speaking rights were removed for virtual Council meetings. This right was replaced with the ability to make written submissions. This decision was made in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020.
6. The above changes to speaking rights were subsequently amended at the Council meeting on 10 September 2020. It was agreed that parties making written submissions in relation to a planning application would be invited to attend the Remote Meeting of the Planning Committee to answer any questions that Members of the Committee might wish to ask in order to seek clarification on any part of their statement.
7. In accordance with the Extraordinary Council resolution, written submissions relating to this application were received from Mr Henry Peto, Mr Cyril Wood, Mr Barry Ayres, objectors, and Ms Jill Scrivener, Agent, Ms Kathryn Sadler, Agent and Mr Seton Fairhurst, Applicant. Those able to attend the remote meeting were, Mr Peto, Ms Scrivener and Mr Fairhurst.
8. Individual written submissions were published online along with the agenda: <http://decisionmaking.westberks.gov.uk/ieListDocuments.aspx?CId=155&MId=5735&Ver=4>

### **Objectors' Submission**

9. The Clerk read out the joint representation. Members questioned the attendee as follows:

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10. Councillor Tony Vickers asked if the pond being built into the slope of the hill with a protruding bund was unusual in the local area.
11. Henry Peto stated that water flowed down the hill through his property and Curridge Road and that the natural place for a pond would be at a lower level. He noted that the pond would cover about two acres and sit in a slope. He indicated that he did not object to the idea of a pond but suggested that it was the wrong location for a large body of water near residential properties.
12. Councillor Hilary Cole noted that it had been an exceptionally wet month and asked if there had been a significant increase in run-off onto Curridge Road from the site.
13. Henry Peto confirmed that there had been an increase in run-off since the point at which 30-40 trees were felled on the site. He suggested that it was perverse that it was being proposed as an ecological pond when damage had already been done through deforestation.

### **Agent/Applicant's Submission**

14. The Clerk read out the joint representation. Members questioned the attendees as follows:
15. Councillor Adrian Abbs asked three questions:
  - i. When had sand extraction taken place at the site?
  - ii. Where had material used to make the bund come from?
  - iii. Had trees been cleared from the site? He noted that the applicant had stated that no trees had been cleared, but the officer had indicated that trees had been cleared to create the soakaway.
16. Mr Seton Fairhurst explained that sand extraction had continued until the mid to late 80s, which had left an area free of topsoil. He indicated that the area was not on a slope, but flattened off towards the road. He noted that the area had a clay base on which it was impossible to grow pasture and it was barren to everything except gorse and bramble. He stated that the bund material had come from the initial excavation on the site. He had been poorly advised at the outset and was told that it was permitted development, so had started excavation, digging from east to west. He suggested that there had been a misconception about tree clearance and explained that there had been trees near Vine Cottage, but no mature trees had been cleared from the site itself.
17. Councillor Vickers noted that the statement had indicated that the proposal would preserve the character and appearance of the site, and that it was a natural feature within the landscape. He suggested that the pond was not a natural feature in this location with its protruding bund. He noted that the agent had quoted Policy CS13, which related to transport rather than character and appearance.
18. Ms Kathryn Sadler explained that the pond would be excavated out of the existing land and the proposed water level would be below the existing land level. She noted that the bunds were purely landscape features and would not be water retaining, with water levels not going above the base of the bunds or the existing land level.
19. Councillor Carlyne Culver stated that it was commendable to create a pond for ecological reasons, but asked Mr Fairhurst why, if he had such concerns, so many trees had been removed. She noted that objectors (Mr and Mrs Ayres) had submitted images from Google maps, which showed a considerable number of trees on the site previously.

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20. Mr Fairhurst reiterated that there were trees in the garden of Vine Cottage, and part of the field that was not part of this application. He confirmed that trees removed from the site were laurel and rhododendron and recently planted garden trees, and that there were no large, mature trees removed from the area of the application.
21. Councillor Hilary Cole noted Mr Clark's concerns about too little technical information being presented and that pre-commencement conditions were required. She asked for confirmation that the agent was happy with these.
22. Ms Sadler indicated that the applicant was agreeable to the pre-commencement conditions, which covered the construction method statement, bund construction method statement, and construction supervision. She confirmed that the engineer had designed the bunds and would supervise their construction to ensure they met the Council's requirements.
23. Councillor Phil Barnett indicated that he had driven past the site to get an idea of the position of the pond. He suggested that there was a considerable raised level of material already in place and asked if this would form part of the bund or if it would be moved later.
24. Mr Fairhurst confirmed that there was no area around the house or outside the application site which formed a bund for the pond. He reiterated that the pond would be below the existing land level and explained that the trees on the site between Vine Cottage and the levels to which Councillor Barnett referred, precluded any water at that level. He confirmed that there was no movement of land anticipated around the house or anywhere other than the pond site itself and some between the pond and the access track.

### **Ward Member Representation**

25. Councillor Hilary Cole in representing the Committee as Ward Member made the following points:
  - This was the third time that the application had been to Committee and on the two previous occasions it had been refused, based on Mr Clark's concerns about the suitability of the bund, potential flooding, and the maintenance of the soakaways. These concerns remained.
  - Although the applicant had gone a long way to address the concerns of local residents and Mr Clark, she shared their concerns about who would be responsible for monitoring and inspecting works and sought assurances from officers that ongoing maintenance of the pond and soakaways would be regularly monitored, should the application be approved.
  - Chieveley Parish Council was particularly concerned about maintenance of the soakaways, since failure to do this could mean that cottages beside footpath 32 may be subject to flooding.
  - The Council had worked closely with the applicant to ensure an acceptable development in accordance with economic, social and environmental principles. However, if the development were to be approved, a condition should be imposed for the pond not to be used for any commercial purposes, since it was located in a sensitive area within the Area of Outstanding Natural Beauty (AONB).
  - She was unable to support the application, since the pond was out of keeping with the surrounding landscape, which was wooded, lowland, mosaic rather than open countryside.

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- Her recollection was that the whole site was heavily wooded, with Vine Cottage previously being almost invisible from Curridge Road.
- Her belief was that the pond would have an adverse impact on the AONB where developments were expected to enhance the landscape.

### **Member Questions to the Ward Member**

26. Councillor Adrian Abbs asked when the bund was constructed. Councillor Hilary Cole suggested that it would have been before the first application was submitted in 2017, since the applicant had started work thinking that it was permitted development. She indicated that it had been there for between four and five years.
27. Councillor Culver asked about the trees removed from the site, and if she agreed that they were laurel and rhododendron. Councillor Hilary Cole indicated that the site had been heavily wooded with some quite significant trees. She accepted that it was reclaimed land that had been previously used for sand extraction, but it had been a well-wooded and well-screened site.

### **Member Questions to Officers**

28. Councillor Clive Hooker asked officers to provide some direction as to where members should focus their deliberations. He suggested that there was a building regulations issue alongside a planning issue and noted that this was the third application, but issues remained in relation to the design of the pond and the maintenance of the overflow pipe, with significant conditions required to address these points.
29. Ms Cutts suggested that progress had been made. She noted that the Council would be relying on the professional qualifications of the engineer supplying the information. She stated that the bund would need to be constructed in accordance with the requested details and calculations, and she was satisfied that if the applicant were to submit these details, then this should overcome any concerns raised.
30. Councillor Hooker asked if members should focus on the impact on the AONB, flooding, ecology and highways as planning issues. Ms Cutts confirmed that this was correct and indicated that there may be a flooding issue if the design details were not correct, but the conditions would address this, so the main issues were appearance and whether it was an appropriate development.
31. Councillor Culver noted that the applicant had commenced work because he had been poorly advised, and had been told that it was permitted development. Ms Cutts stated that he had not been advised by West Berkshire Planning Department. She indicated that there were some permitted drainage works for agricultural land, which the applicant was seeking to use, but this was not for an agricultural purpose, so it was not permitted development.
32. Councillor Culver asked if the applicant had sought the Council's advice. Ms Cutts was unable to confirm this either way.
33. Councillor Cole asked Mr Clark if he was confident that the pre-commencement conditions would fulfil his requirements.
34. Mr Clark indicated that he would like some input as to the exact wording due to their technical nature. He reiterated the main concerns as the design calculations, the spillway, and assurances that it could be maintained safely. He also indicated that he would like to see a condition requiring the developer to provide evidence that the bund had been built in accordance with the design and specification. He noted that

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the applicant had indicated that the bund was not a water-retaining structure. However, it was on a surface water flow route. A 1 in 100 year storm would result in the pond filling quicker than water could be drawn off, so the bund would in effect become a water-retaining structure. He had previously asked what the existing embankment was made from and stated that in his opinion it was made from rubbish, and was therefore dangerous. This suggested that the landowner had a poor record in building water-retaining structures. He stressed that these bunds would be water-retaining structures that must be designed properly, and the Council needed to supervise construction to ensure they met the design standard.

35. Councillor Abbs asked if this was not a straightforward change of use application. Ms Cutts confirmed that there was no use proposed for the pond, as it was there to retain water as an ecological pond, and there was no use class that it was being changed to. Councillor Abbs noted that it had been refused as permitted development for agricultural use.
36. Councillor Barnett noted the pond dimensions of 40m x 58m x 1.5m deep, which would hold a lot of water that would exert considerable pressure on the bund. He recalled a dam failing in North Yorkshire last year and asked Mr Clark about the weight of the water the bund would retain.
37. Mr Clark indicated that he did not have figures for how much water the bund would impound, but noted that it was a vast amount and that if there was a catastrophic breach of the embankment, then somebody could be seriously hurt. He stressed that it needed to be designed and constructed to stringent standards, and that his concern was purely about safety.
38. Councillor Hooker asked how much weight should be attached to safety in this planning application, and queried whether this was more of a building regulations issue.
39. Simon Till confirmed that the application related to drainage and flood risk and this was one area where planning overlapped a long way into a technical field, particularly since the Council had published supplementary planning guidance on drainage, flood risk and sustainable drainage systems. He noted that concerns raised in relation to water management and safety were matters on which Planning Officers would routinely consult with the Local Lead Flood Authority. He suggested that it was legitimate to consider whether the recommended conditions would be sufficient to control the passage of water without risking damage to health and safety or damage to property in the event of an extreme flood event. He noted that the Supplementary Planning Guidance (SPG), specifically regarding Sustainable Drainage Systems, and the policy on flood risk management were relevant. He urged members to scrutinise the proposed conditions and to consider Mr Clark's advice. He stated that conditions could be used to control drainage, flood risk and water management on this site, but stressed that they needed to be stringent. He suggested that it would be perfectly reasonable for members to recommend approval under the caveat that Mr Clark was re-consulted on the wording of the conditions.
40. Councillor Hooker noted that the Committee was not qualified to apply appropriate conditions.

### **Debate**

41. Councillor Cole felt that the Committee was back to square one in terms of the safety of the bunds and their maintenance. She considered safety to be paramount and was nervous about approving the development, because the applicant had not



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been given much time to read the pre-commencement conditions and could come back subsequently if he felt the conditions were too stringent. She proposed to refuse the application until a better quality application was submitted taking into account the comments on this application and the two previous applications.

42. Councillor Vickers agreed that the application should be refused, but was prepared to set aside the drainage as a technical matter and to allow Mr Clark to change the wording of the conditions. On a more fundamental issue, he asked why a pond was proposed at all, and felt that it could not be approved under policy CS19. He stressed the importance of protecting the AONB. He noted that there were ponds at Greenham and Bucklebury Commons, but not as big as this, and none were as close to the highway nor so visible. He considered that the proposal would harm the landscape character in terms of the local distinctiveness of this part of the AONB, and it would not be appropriate in terms of its location and design. He suggested that the pond should be sunk into the ground, located away from the road and should look more like a natural feature.
43. Councillor Howard Woollaston considered that the proposal would enhance the AONB, but indicated that unless the Council had firm controls over how it was built, he would be minded to vote against the proposal.
44. Councillor Abbs noted that a bund was a man-made feature, so it was an inappropriate development in the AONB. He suggested that the soil used in the bund should be put back and the trees should be let grow back, and that this was an enforcement matter.
45. Councillor Cant agreed with Councillors Cole and Woollaston and would vote against the proposal.
46. Councillor Woollaston noted that the land was of very poor quality and questioned whether trees could be re-established. He suggested that the pond was a good solution for what had been a sand extraction site.
47. Councillor Vickers seconded Councillor Cole's proposal, but on the basis that the CS19 argument was added to the reasons for refusal.
48. Sharon Armour sought clarification on the reasons for refusal.
49. Simon Till confirmed that Members had raised concerns with flood risk, insufficient information with respect to flood risk, and impact on the character and amenity of the landscape and AONB.
50. Councillor Abbs asked if change of use was an issue.
51. Simon Till explained that the default situation of land that did not have another use class was agricultural. This application had no stated change of use, with no intention to use the pond for domestic or commercial use, and would retain agricultural use of the site.
52. The Chairman invited Members of the Committee to vote on the proposal by Councillor Cole and seconded by Councillor Vickers to refuse planning permission. At the vote, the motion was carried.

**RESOLVED** that the Head of Development and Planning be authorised to **refuse** planning permission for the following reasons:

1. Flood risk

The application is proposing the creation of an ecological pond, bunds soakaways, earthworks and a soft landscaping scheme on agricultural land within the North Wessex

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Downs Area of Outstanding Natural Beauty. The proposal has failed provide sufficient evidence that the development can be completed and maintained in a safe manner, and does not incorporate measures for the long term maintenance and management of flood protection and flood management measures, contrary to policy CS16 of the West Berkshire Core Strategy 2006-2026, and as such does not demonstrate a high quality and sustainable design, contrary to policy CS14 of the West Berkshire Core Strategy 2006-2026. In the absence of any public benefits to the scheme, the proposal fails to represent sustainable development, and is contrary to polices CS14 and CS16 of the West Berkshire Core Strategy 2006-2026, and the advice contained within the NPPF.

### 2. Impact on AONB

The application is proposing the creation of an ecological pond, bunds soakaways, earthworks and a soft landscaping scheme on agricultural land within the North Wessex Downs Area of Outstanding Natural Beauty. The formation of the bunds and the creation of the pond will result in alien and unnatural features within the landscape and fails to conserve and enhance the local distinctiveness of the North Wessex Downs Area of Outstanding Natural Beauty. In the absence of any public benefits to the scheme, the proposal fails to represent sustainable development and is contrary to policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and the advice contained within the NPPF.

### (3) **Application No. and Parish:20/01924/HOUSE, The Bungalow, Downend, Chieveley**

*(Councillor Hilary Cole declared a personal interest in Agenda Item (4)3 by virtue of the fact that she was a member of Chieveley Parish Council. As her interest was personal and not prejudicial or a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.)*

The Committee considered a report (Agenda Item 4(3)) concerning Planning Application 20/01924/HOUSE in respect of a Section 73A: Variation of Condition 1 (Rooflight windows) of previously approved application 10/02895/HOUSE: Retrospective – Velux rooflights to the east and west elevations (to comply with Condition 3 of approved permission 09/02148/HOUSE).

1. Mr Simon Till, Principal Planning Officer, introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion the report detailed that the proposal was acceptable in planning terms and officers recommended that the Head of Planning and Development be authorised to grant planning permission, subject to the conditions outlined in the main and update reports/for the reasons listed in the main and update reports.

### **Removal of speaking rights**

2. As resolved at the Extraordinary Council meeting held on 29 April 2020, public speaking rights had been removed for virtual Council meetings. This right had replaced with the ability to make written submissions. This decision was made in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020.
3. The above changes to speaking rights were subsequently amended at the Council meeting on 10 September 2020. It was agreed that parties making written submissions in relation to a planning application would be invited to attend the remote meeting of the Planning Committee to answer any questions that Members of

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the Committee might wish to ask in order to seek clarification on any part of their statement.

4. In accordance with the Extraordinary Council resolution, written submissions relating to this application were received Ms Tania Chamberlain, objector, who was also able to attend the remote meeting.
5. Individual written submissions were published online along with the agenda: <http://decisionmaking.westberks.gov.uk/ieListDocuments.aspx?CId=155&MId=5735&Ver=4>

### **Objector's Submission**

6. The Clerk read out the representation. Members questioned the attendees as follows:
7. Councillor Tony Vickers queried whether Ms Chamberlain was objecting to the window being opened a small amount at the bottom, towards her bathroom window, or to it being fully open. Ms Chamberlain explained that the existing condition had been that the window should be completely fixed shut. When the window has been fully opened, she was able to see directly into her neighbour's room and assumed that they could see directly into her bathroom.
8. The situation had been ongoing for over two years. There had been some exemplary tenants renting the house, however the tenant before last had removed the obscuring film from the window and opened the window completely. The latest tenant had done the same until recently. The condition had therefore not been enforced.
9. There was only one family bathroom in her house, with one window that had to be opened for ventilation to reduce mould, and she was worried that the family could be observed getting in and out of the bath and going to the toilet.
10. Councillor Vickers sought clarification as to whether she would object to the window being fixed so that it could only be opened a small amount. Ms Chamberlain explained that as it was a tenanted property she was not confident that tenants would all abide by the rules, as experience had shown the opposite.
11. Councillor Hilary Cole noted that the objector had written that, 'this had cast a shadow on her lives' and asked whether this situation had affected the mental health of the family. Ms Chamberlain confirmed that it had, as it had been a constant worry. She was not accusing any tenant of being a voyeur, but it was a constant worry as the conditions of a fixed, obscured window, had been broken. She was especially concerned for her child and her child's friends that came and stayed.

### **Ward Member Representation**

12. Councillor Hilary Cole in representing the Committee as Ward Member made the following points:
  - She expected that Members were wondering why she had brought such a seemingly minor application to committee.
  - It was a tenanted property that had been rented by many different tenants over the years. She wanted to make it clear that her issue was not with the former or current tenants, but rather with the owner of the property because of their persistent failure to comply with the planning permission.
  - On this occasion the condition was that a velux window on the west side of the property be fixed, un-openable and obscure glazed. Members should note that this roof-light itself had retrospective permission granted in 2010, as it was in breach of

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a consent granted in 2009. Over this time this condition had been ignored, to the distress of the residents of the neighbouring property whose privacy was affected. This condition was imposed originally to protect the neighbours who had lived in their property for over twenty years. The current case officer was recommending approval, whereas the previous case officer recommended refusal, therefore this was a subjective recommendation, rather than an objective one, as nothing had changed in the interim.

- She asked the Committee to also take into account the planning enforcement action taken in the intervening years, as Ms Chamberlain had contacted enforcement during this period.
- Councillor Hilary Coles' view was that if a breach of condition was sufficient enough for enforcement action to be undertaken, then this action should be seriously considered by the Committee when reaching their decision.
- She firmly believed that there was an obligation on Members to send a strong message to developers, large or small, that planning conditions were set for a reason and should not be changed at a whim for their convenience, it made a mockery of the planning process and treated the local planning authority with contempt. She reminded Members that this was the second retrospective application they had considered at this meeting.
- For this reason she could not support the application and asked the Committee to refuse it, as to do so would not compromise any of their planning policies.

### **Member Questions to Officers**

13. Councillor Dennis Benneyworth noted that Mr Till had mentioned what he felt the Planning Inspectorate's view might be, he remarked that they might also expect the original conditions to be adhered to. Mr Till replied that the Planning Inspectorate would certainly take the previous case officer's reason for applying the condition into consideration. However, the report was scant on detail. Other than the desire to maintain neighbouring amenity, little detail had been given. There was no concern that the neighbouring amenity would be compromised. His understanding from reading through the details, was that the reason the condition had been applied, was that the window was shown on the plans as being fixed shut and obscured, rather than the case officer having given the detailed consideration that would be expected, as to whether the neighbouring amenity would be compromised.
14. In this case, the case officer who considered this amendment to the condition had given due consideration to the neighbouring amenity and her conclusion was that as this was a non-habitable room, a bathroom, was in planning policy terms given limited weight. Traditionally, one would expect the bathroom window to be closed most of the time except when the bathroom was in use, and obscured glaze, and that the user would be paying some attention to their own privacy. The 19 metre separation distance was considerably larger than many side-by-side window relationships, where one of those windows was of a non-habitable room. He could not therefore disagree with the case officer's conclusion.
15. Councillor Adrian Abbs remarked that he thought that there was a rule that there should be 20 metres between views of this nature. He could not agree with the case officer's conclusion. Mr Till explained that 21 metres was the separation distance specified between rear-facing properties of windows, of habitable rooms that faced each other directly to maintain privacy. However that does not exist in policy for side by side relationships and non-habitable rooms.

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16. Councillor Cant was puzzled as to why, when the first planning officer had considered it appropriate to impose a condition to keep the window closed and obscured, had a subsequent officer felt that this was now not a requirement. He agreed with Councillor Hilary Cole that agreed conditions should be enforced. Mr Till reiterated that typically and in accordance with guidance to planning officers, he would expect the rationale for the condition would have been detailed in the case officer's report and to be given in the reason for the condition, however in this case the reason for the condition was quite vague and the report had little detail. It would appear that the case officer had been presented with a plan that had shown this window as fixed and obscured, and the officer had therefore applied this condition without giving due consideration as to whether it was necessary in this case.
17. Councillor Vickers queried as to what weight enforcement action would have on the Planning Inspectorate's decision, should the Committee be minded to refuse this application, and the decision be taken to appeal. Mr Till explained that as he understood it, this was not a case where enforcement action had been undertaken, but where an enforcement investigation had been made, following a report that a condition was being breached. The Council had not taken formal action against the breach of condition, given that there was an application before the Committee to regularise it. Should the application be refused, the Council would need to consider whether it was expedient to either: follow the refusal with enforcement action; to wait until an appeal and its determination, or set aside enforcement action as there was not enough harm to justify it. He suggested that the Members decision at this meeting would have significant input into the officer's considerations and if Members were minded to refuse the application, the reasons for refusal would be taken into consideration by officers as to whether enforcement action should be taken.
18. The Chairman asked for confirmation that the original application was made with the window fixed and obscured, and that the application before the Committee this evening was retrospective to propose that the window that had been opened, be kept open. Mr Till confirmed that this was correct and quoted from the original application.
19. In accordance with the Council's Constitution point 7.13.5, the Committee supported the Chairman's motion that the remaining business could be concluded by 10.30pm, and therefore continued with Agenda Item 4(3).

### **Debate**

20. Councillor Hilary Cole opened the debate by noting that there had been no submission from the applicant/agent and therefore Members had no idea why they wished to change the window. She found this odd and that if the applicant was keen to do this, in light of the fact that they had ignored the condition, they should have made a good reason to the Committee for the change. Therefore, she proposed to reject Officer's recommendation and refuse planning permission. This was seconded by Councillor Abbs.
21. Councillor Abbs remarked that there had been a slight mistake by an officer not detailing a condition correctly, there was also a small issue with the Council's policy in that it could be tightened up further to protect privacy. He could see definite harm to the neighbours and potential benefit for the applicant, however without the applicant's submission there was no more information. He saw no reason to change the existing condition.
22. Councillor Cant concurred with Councillor Hilary Cole's observation that the Committee had considered two fairly open breaches of granted conditions, secondly

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he noted that the reason for the original condition was to preserve the privacy of the neighbouring property. He would therefore be voting in favour of refusal.

- 23. Councillor Howard Woollaston expressed the opinion that although his daughter was now grown-up, he would have had the same view as Ms Chamberlain and was going to vote against officer's recommendation.
- 24. Councillor Phil Barnett noted that when he visited the site his view was that there was a long distance between properties and he had not understood the neighbour's concern. However, having heard the representations he had changed his mind and would be voting against officer's recommendation.
- 25. Councillor Benneyworth commented that he could go along with officer's recommendation, as long as conditions were applied that the velux window was nailed shut and obscure glazed, however he would be voting in favour of Councillor Hilary Cole's proposal.
- 26. The Chairman asked Members for their reasons for refusal. Councillor Hilary Cole stated that her reasons were that the proposal affected the privacy and amenity of the neighbouring property. The condition was attached to the original permission and nothing had changed in the interim. The adverse effect on the neighbour had to be taken into account, and that as a rental property there was no certainty that this condition would not be breached in the future. The decision would not compromise any of our planning policies. Mr Till suggested that the reason for refusal was contained in policy CS14, in terms of quality of life in West Berkshire and design, along with our supplementary planning guidance, which required such works to consider the privacy and amenity of neighbouring properties.
- 27. The Chairman invited Members of the Committee to vote on the proposal by Councillor Hilary Cole, seconded by Councillor Abbs to refuse planning permission. At the vote the motion was carried.

**RESOLVED** that the Head of Development and Planning be authorised to refuse planning permission for the following reasons:

**Reasons:**

The proposal to vary a restrictive condition to allow a roof light to be opening and clear glazed would result in an unacceptable level of overlooking between 'The Bungalow' and a first floor bathroom window at 'Sunhill Cottage'. The removal of the condition would allow for an increase in the opportunities for actual overlooking and result in a greater sense of perceived overlooking for the neighbouring property. This would be to the detriment of the amenities of current and future occupiers of both properties. The proposal therefore fails to secure a good standard of amenity for existing and future occupants of neighbouring properties as required in the provisions of the National Planning Policy Framework 2019, Policy CS14, of the West Berkshire Core Strategy (2006-2026), the Quality Design West Berkshire SPD (Part 2: Residential Development), and the House Extensions SPG

**32. Appeal Decisions relating to Western Area Planning Committee**

Members noted the outcome of appeal decisions relating to the Western Area.

*(The meeting commenced at 6.30 pm and closed at 10.00 pm)*

**CHAIRMAN** .....

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**Date of Signature** .....