

# Supplemental Items for Eastern Area Planning Committee

**Wednesday, 3rd August, 2022 at 6.30 pm**  
in the Council Chamber, Council Offices  
Market Street Newbury

## Part I

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2. **Minutes**

3 - 30

To approve as a correct record the Minutes of the meeting of this Committee held on 13 July 2022.

Sarah Clarke

Service Director (Strategy & Governance)

For further information about this/these item(s), or to inspect any background documents referred to in Part I reports, please contact Democratic Services Team on

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## DRAFT

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

### **EASTERN AREA PLANNING COMMITTEE**

### **MINUTES OF THE MEETING HELD ON WEDNESDAY, 13 JULY 2022**

**Councillors Present:** Graham Pask (Chairman), Alan Law, Tony Linden, Ross Mackinnon, Geoff Mayes, Richard Somner, Keith Woodhams and Owen Jeffery (Substitute) (In place of Alan Macro)

**Also Present:** Sharon Armour (Principal Lawyer - Planning & Governance), Jessica Bailiss (Policy Officer (Executive Support)), Gareth Dowding (Principal Engineer (Traffic and Road Safety)), Alice Attwood (Senior Planning Officer), Matthew Shepherd (Senior Planning Officer), Carolyn Richardson (Civil Contingencies Manager) and Mehdi Rezaie (Interim Development Control Manager)

**Apologies for inability to attend the meeting:** Councillor Alan Macro

#### **PART I**

#### **6. Minutes**

The Minutes of the meeting held on 1<sup>st</sup> June 2022 were approved as a true and correct record and signed by the Chairman.

#### **7. Declarations of Interest**

Councillor Ross Mackinnon declared an interest in Agenda Item 3(1) but reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

All Councillors present declared an interest in Agenda Item 3(2) but reported that, as their interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

#### **8. Schedule of Planning Applications**

##### **(1) Application No. & Parish: 22/00535/FUL - Pavilion, Recreation Ground, Recreation Road, Burghfield Common, Reading**

*(Councillor Ross Mackinnon declared a personal interest in Agenda Item 3(1) by virtue of the fact that he and his family lived nearby to the application site and often used the recreation ground and playground. As his interest was personal and not prejudicial or a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.)*

The Committee considered a report (Agenda Item 3(1)) concerning Planning Application 22/00535/FUL in respect of the erection of a temporary cafe (prefabricated unit).

Ms Alice Attwood (Senior Planning Officer) introduced the item and highlighted the key points.

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In accordance with the Council's Constitution, Mr Tim Ansell, (Burghfield) Parish Council representative, Ms Jenny Elmore and Ms Steph Awbery, objectors, Ms Kailee Godding, supporter, Mr Paul Lawrence and Mr Chris Greaves, applicants, and Mr Dominic Morse, agent, addressed the Committee on this application.

### **Parish Council Representation:**

Councillor Tim Ansell, Chairman of Burghfield Parish Council, in addressing the Committee, raised the following points:

- Burghfield Common was the largest of the residential areas within the Parish of Burghfield with a population of approximately 6,000 people located halfway between Burghfield village and Mortimer.
- There were no pubs or cafes apart from a 30 cover charity café that operated two mornings a week from the wooden Methodist hall when they had enough volunteers.
- The recreation ground was at the centre of Burghfield Common and was the location for many varied activities.
- There was constant activity on the recreation ground with dozens of dog walkers before and after work and increasingly during the day as more people worked from home.
- The children's play area attracted many families especially after school, in addition to keep fit classes and other ad hoc activities.
- At weekends and during the week in the summer, Burghfield Football Club played games on the ground which attracted supporters locally and from across the country – it was an official FA ground and local derbies could attract in excess of 100 supporters.
- In addition to year-round use, in the summer there was a pop-up pub attracting over 100 customers on a Friday night plus their families. There was also a pop-up café.
- Annually there was Burghfest which attracted 2,000 people on each of the days it was held.
- The only events that caused parking problems were the football games as many of the participants and supporters were not local and consequently drove.
- The aim of the proposed café was to provide somewhere for the residents of Burghfield Common to meet and socialise throughout the year on an ad hoc basis.
- Before Covid such a facility would have been viewed as serving young families and people who did not work but since Covid there had been a significant increase in the number of residents working from home and therefore missing out on social activities.
- Increasingly there were feelings of loneliness and isolation, and a big part of the reason the proposal had been moved forward was around caring about the mental health of parishioners due to the impact of people being increasingly isolated.
- The temporary nature of the café related to the time it would be on the recreation ground but it was not a temporary building. It would be purpose-built, the construction very similar to that of a number of classrooms at the local schools. The plan was to establish whether there was a desire in the local community, to

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that which matched the interest on surveys, to have the café and whether it would be financially viable.

- The reason for the Parish Council setting a period of five years maximum was to provide two years of operation to establish the financial viability and then three years to go through design and obtain planning permission before construction of a new facility in keeping with the local environment.
- In the event of an emergency, customers inside the café would have access to running water, toilet facilities and food compared to other local buildings such as the library, adjacent pavilion and the village hall where no food was kept.
- In the event of an emergency, once the café was open, a procedure would need to be agreed on what would happen to the other users of the recreation ground in an emergency. The café users would often be a very small proportion of the total number of users of the site.
- To address the concern about how the café would impact the emergency plan, the café was aimed at the current users of the recreation ground including dog walkers who liked a coffee as they exercised their dogs; parents who wanted somewhere to sit protected from the elements while they watched their children in the play area and local residents who needed to get out of their house and meet with friends. The impact of the café on the number of people on the recreation ground would be minimal. This concern could be completely mitigated by closing the café during the times of the organised football games. Each football game had a minimum of 30 people, plus supporters, at least half of whom were from outside of the local area and was more than the café could accommodate.

### **Member Questions to the Parish Council:**

Councillor Alan Law asked whether there was a bar and kitchen in the building adjacent to the proposed café. Councillor Ansell stated that the building referred to by Councillor Law accommodated the changing rooms and toilets, and was also where the pop-up pub operated from. There were no bar or pub facilities in the building. There was a small kitchen and drinks could be served to customers outside via a serving hatch.

Councillor Richard Somner asked how the survey/consultation had been conducted as there had been a mixed response. Councillor Ansell said regular surveys had been carried out prior to Covid and one of the things that regularly came up was around increased rental space from the Parish Council available for people to rent. The idea of a hub had also been suggested when it looked like the library would close. The other suggestion that was raised regularly was for a café and somewhere for people to meet. In response to survey responses the Parish Council had refurbished the village hall and increased the amount of rooms that could be rented. A plan had also been negotiated with West Berkshire Council which avoided the closure of the library. This had however, left the constant question regarding a café or somewhere people could meet because this remained the gap in the village.

### **Objector Representations:**

Ms Elmore and Ms Awbery in addressing the Committee raised the following points:

- Ms Awbery stated that the location was not suitable and would put residents at risk.

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- Residents were very concerned about the safety of deliveries and collections on a blind bend, where stopping was not permitted and there were double yellow lines. This forced people into the road close to the school, on bus routes and footpaths.
- The car park had height restriction barriers which large wide vehicles could not use and obstructed in and outgoing traffic.
- If dog walkers wished to use the café, dogs would have to be tied up outside next to the play area and there was concern that unsupervised children might approach the animals and possibly get bitten.
- The police had voiced their concern regarding safety and anti-social behaviour both from the crime prevention team and the policing team.
- The Office for Nuclear Regulation (ONR) and Emergency Planning teams from the Atomic Weapons Establishment (AWE) considered the building construction not suitable to protect users of the plot inside the Detailed Emergency Planning Zone (DEPZ).
- The design of the café was not in keeping with the design of existing local buildings. The definition of temporary in the case of the application was not counted in weeks but in years, so therefore the development should be in-keeping with surrounding buildings.
- The proposed opening hours were excessively long and would impact on local houses.
- Measures for anti-social behaviour, littering and crime were insufficient for the kind of development proposed.
- Plans to allow local groups to use the development would increase nuisance to residents in the rural community.
- Based on the current use of the recreation ground, the car park was already insufficient. Parking issues would restrict people using the recreational ground for its intended purpose.
- The applicant had been refused an extra operating day per week at the pavilion on the grounds there was no demand, so there was no need for the kind of development proposed given that most people had now returned to their places of work.
- There were alternative options that could be explored including increasing the number of operating days per week at the underused pavilion or café services could be run out of the newly refurbished village hall. There were plenty of food retail and café's already operating in very close proximity.
- The Parish Council was supposed to support and protect all residents but in the case of the current proposal they were pushing for a vanity project that was not justified and seemed to value revenue over social wellbeing. The Parish Council had no remit to build as they had failed to consult residents and favoured a development that put residents at risk.
- Members were asked to respect the rural community and reject the poorly thought through proposal.
- Ms Elmore explained that she managed an extensive investment portfolio including cafés and therefore had a lot of knowledge on the subject. Neither

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Officers nor the Applicant had given adequate consideration for waste, deliveries or the continued safe use of the highway.

- The logistics which involved seven days per week would have a massive impact.
- The Applicant had advised Highways that the waste management was the same as the existing pavilion but to Ms Elmore's knowledge there was no waste management at the site currently. Bags were collected once a week and taken to the village hall.
- Providing permission for a commercial development on a protected village green had the capacity to set a precedent on other village greens within Burghfield, surrounding villages and further afield.
- There was no objection to a pub or a café in the village, the objection was to having these facilities on the village green.

### **Member Questions to the Objector:**

Councillor Somner asked Ms Awbery to clarify her statement that there had been no consultation regarding the proposal with local residents. Ms Awbery said most people in the village knew nothing about the proposal as most of the consultation had taken place at the May Fair event and a lot of the residents, especially the elderly, had not attended. Ms Awbery said residents only became aware of the proposed café when it was featured in the local news magazine.

Councillor Ross Mackinnon asked Ms Awbery where she had got the information that deliveries would take place on the blind bend with double yellow lines as the Highways contribution in the report made no mention of this. Ms Awbery stated that there were double yellows around the bend and the map provided by West Berkshire Council showed no waiting areas. Councillor Mackinnon further asked if Ms Awbery was saying that there were double yellows everywhere in the area referred to, making it impossible to make deliveries without being illegally parked. Ms Awbery confirmed this was the case and described the area in detail. Councillor Mackinnon said he knew the area very well and was of the view that deliveries could take place without being on double yellow lines. The Chairman said this point could be pursued with the Highways Officer.

### **Supporter Representations:**

Ms Kailee Godding in addressing the Committee raised the following points:

- A lot of early support had been given to the proposal for the temporary café before the scare mongering tactics of a small group of community members. This had amounted to untrue and misleading information which had led to a large number of objections being made based on false claims, which had overshadowed genuine objections.
- The café at the Methodist Church, the pop-up pub, Burghfest and other events brought the community together. The annual May Fair in 2022 had been the biggest and busiest it had ever been. It demonstrated that people wanted places to go and that the village was reliant on community events to bring people together.
- There were few places for villagers to meet regularly as most events were held as a one-off on an unreliable schedule.
- The neighbouring village of Mortimer had a smaller population but had a greater range of facilities, including a café.

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- The proposed new café would be a valuable addition to the community as it would provide reliable and consistent opening times, and being located in the central location of the recreation ground would mean that families could walk to the park and visit a café at the same time.
- The recreation ground itself would not suffer material harm from the building as the proportion of the green affected would be small.
- Villagers had been asked numerous times what facilities they wanted. In the 2017 survey, 86% of the residents said they wanted a café in the hub facility being considered. In 2019, the Council reviewed the survey and asked for the top three project ideas for a proposed hub and the provision of a café was the highest scorer.
- Ms Godding stated that she had read the letter from the Emergency Planning Officer and had a number of observations. The letter stated that currently, anyone attending the recreation ground had no protection in the event of an incident. Ms Godding stated that according to the annual booklet residents were given, such an incident was extremely unlikely. It was felt that a temporary facility (that offered some protection) was better than no facility, in the unlikely event of an incident.
- The letter from the Emergency Planning Officer stated that the existing pavilion building could possibly support the café but that the buildings were not linked. Ms Godding asked therefore if the Council could consider linking them to meet the requirements of the Planning Officer and if planning be granted subject to that connection being made.
- The proposed building would be similar in design and construction to those used in the village for other purposes, such as the primary school. Ms Godding noted that there were concerns raised that the café would not be safe in an emergency and queried if this meant that the same type of school buildings were also not safe.
- None of the consultative bodies had raised any concerns in relation to traffic, parking, noise or anti-social behaviour in relation to the application.
- The café would meet the needs of the majority of Burghfield residents and it was hoped the Committee would consider all genuine viewpoints and come to a resolution enabling the facility to go ahead.

### **Member Questions to the Supporters:**

There were no questions raised by Members.

### **Agent/Applicant Representations:**

Mr Paul Lawrence and Mr Chris Greaves (applicant) and Mr Dominic Morse (agent) in addressing the Committee raised the following points:

- Mr Morse reported that the structure was modular, constructed off-site and typical of modern methods of construction. It was no different in its robustness and permanence than that of bricks and mortar. Many new houses and commercial buildings were constructed using the same technology as the proposed café and it was hoped this would allay the concerns of the previous speaker about the safety of school buildings. The only difference was that new houses had a decorative, cosmetic skin of brickwork that was applied to them.



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- The building would meet strict comprehensive standards of the building regulations, no different from a new build house or commercial building. The building would be constructed using stringent air tightness standards and fully insulated with a standalone heating system. Windows would be fully sealed and double, if not triple glazed, and met the requirements of building regulations in terms of security, robustness and air tightness.
- The café was over 500 square feet inside and would readily accommodate 29 people with sufficient fresh water and toilet facilities.
- The café would be a robust building built to modern standards which would fully meet building regulation requirements and should not be considered any different from any other new build building.
- Mr Lawrence provided some background and history to the application. In 2016 West Berkshire Council had planned to close Burghfield Library and the Parish Council had looked for a financial, sustainable solution that would keep the library open and add some much needed additional rentable space and a café for the community to get together. The Parish Council had proposed a community hub to accommodate the library, provide additional rental space and a cafe. In 2017 the Parish Council surveyed residents to understand the community's priorities and one of the top priorities was a community hub including café.
- During 2018, West Berkshire Council and Burghfield Parish Council worked together to enable the library to remain open in its current building at the Willink School, so negating the requirement for the library move. In 2019 the Parish Council surveyed the residents again and the top priority again for residents was a community hub including café.
- In 2020, when the pandemic began, the village hall had needed to close and could not reopen under the new regulations without extensive refurbishment works. The Parish Council took the opportunity to modernise the village hall and provide ventilation to meet the new regulations and provide some additional rental space. During 2021, the Parish Council established that a low cost solution to test the viability was the best solution to enable the community café for the residents of Burghfield, which culminated in the application now before Committee.

### **Member Questions to the Agent/Applicant:**

Councillor Tony Linden asked Mr Morse if the café would meet the same standards as a permanent building in the DEPZ as he noted that this was not the opinion of the Emergency Planning Officer. Mr Morse said the structure was fabricated in a factory to tight design standards much more rigorously than it would be in the rain and on site and would therefore be more airtight. The build quality and air tightness was important as with all new buildings and it would be as resistant as a new build house would be to any emergency situation. It would be a robust, modern construction that was insulated, ventilated and heated exactly the same as a new build house with the only difference being that it would be manufactured offsite.

Councillor Geoff Mayes asked Mr Morse if the foundations would be concrete and if they would be usable for a replacement vehicle in a replacement building in a few years' time. Mr Morse said it was likely it would either be built on strip foundations depending on ground conditions subject to structural survey or be built on pads depending on the ground conditions. This feature had not yet been determined but would be if planning consent was granted. Mr Morse confirmed that the foundations would be sufficient to support the structure. On the question of air tightness, which may be relevant when

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talking about the DEPZ and any possible contamination, Councillor Mayes asked Mr Morse if he would be happy with the provision of one toilet for up to 24 people who could be held in the facility for a few days. Mr Morse said he thought this would be fine for a period of up to 48 hours.

Councillor Mayes asked Mr Lawrence if the temporary proposal was an economic test as to the viability of the café before it was put into a permanent situation and Mr Lawrence replied that it was.

### **Ward Member Representation:**

Councillor Graham Bridgman and Councillor Royce Longton in addressing the Committee raised the following points:

- Councillor Bridgman explained that the DEPZ was based on a circle which was drawn from the centre of the AWE site in question and then the hedgehog of the DEPZ was drawn around it so as to incorporate communities and make sure communities were not split.
- The site fell outside of the circle, which was 3.16km. However, the site was in the DEPZ but outside the circle on which it was based and this was an important point to consider when one looked at other events that took place in Burghfield where people had no shelter at all.
- These events included Burghfest which attracted a couple of thousand people; the infrequent pop-up pub with a few hundred people and the May Fair which had many hundreds of people over a weekend with no shelter at all. This proposal needed careful consideration but it was important to remember it was for 24 covers and given what had been said by the architect it was felt that 24 covers (if they were all there at the same time) could be accommodated in an emergency.
- Councillor Longton voiced that Burghfield Common was a thriving rural community with an excellent community spirit which had many communal facilities but lacked a community space where residents could get together to socialise and discuss local affairs. The Methodist Church served coffee in the church hall but the facility was restricted in hours and a full-blown café, as proposed by the Parish Council, was much needed.
- Whilst the café was proposed for the recreation ground, known locally as the village green, it would only occupy about 1.3% of the total area of the recreation ground. It would be built in a corner close to the existing changing rooms and provide much needed extra facilities. It would not destroy the village green to any significant extent.
- Objectors had claimed that residents had not been consulted, but as the Committee had heard, there had been widespread consultation with the community over the past five years.
- The leaflets distributed by objectors stated that delivery vehicles to the café would park on the pavement on School Lane blocking traffic and forcing pedestrians onto the road on a blind bend. However, it was now proposed that the relatively few delivery vehicles would use the existing recreation ground car park with no direct access from School Lane.
- Councillor Longton concluded that he felt it was an excellent proposal and if the DEPZ issue could be overcome he hoped it went ahead.

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

There were no questions raised by Members.

### **Member Questions to Officers**

Councillor Law asked the Planning Officer whether the building could be considered a temporary building if foundations would have to be dug for it. Ms Attwood said the Agent had stated in the application that the proposal was for a temporary café (pre-fabricated unit), although this was not reflected in his earlier submission to the Committee. Planning did not normally get involved with the issue of foundations and if the Officer recommendation was overturned there would need to be a condition in place, which meant the land had to be returned to its original state within five years. If serious foundations were dug then the land would still need to be put back exactly as it was.

Councillor Law asked Ms Carolyn Richardson, Emergency Planning Lead, why the application should be refused on health and safety grounds given the number of other events and activities, including on the ground itself, which offered no shelter to attendees. Ms Richardson said that when the detailed emergency planning zone was set it was initially on an area that had been set by AWE as the operator and called an urgent protection area. The application site was outside that area however, the DEPZ was set by the regulators and was bigger than the circle referred to by Councillor Bridgman. The Office for Nuclear Regulation had required the Council to assure them that it could look after people within the DEPZ. When these planning applications came forward it was not just the Council that reviewed them, they were also reviewed by an off-site emergency planning group because responding to an AWE incident would involve the Council and approximately 27 other agencies. No details had been provided to emergency planning other than the proposal consisted of a prefabricated building and on that basis it was not deemed suitable.

Councillor Mackinnon referred to Ms Godding's question about whether temporary school accommodation was safe if the proposed café, which was constructed in the same way, was not considered to be safe for 24 people. Ms Richardson said she did not know the full details about the construction of the school buildings but said the Emergency Planning Department worked with all schools with respect to what they would do should there be an AWE incident and they had to effectively go into lockdown.

Councillor Linden referred to the Aldi application that was given permission and asked Ms Attwood what, in terms of the actual building, her opinion was and whether it was relevant in this case. Ms Attwood said the scale of the two applications were completely different but also the merits were completely different. The Aldi/Lidl building was a permanent building and in the case of the current proposal, due to the small size of the proposed café, it would not be acceptable to hold people for a 48 hour period. It was due to the size of the building as well as it not affording protection.

Councillor Linden asked Ms Richardson to comment on the statement by Mr Morse that the proposed building quality was much higher than the view of those consulted and also to comment on Councillor Bridgman's comments about events that took place in the open air. Ms Richardson said she was not an expert on building structures which was why UK Health Security Agency (UKHSA) had been consulted. If more details had been known in advance then more concrete answers could be given but specialist advice had been given based on the wording of the application for a proposed prefabricated building. With regard to open air events, Ms Richardson said that following the significant change in the detailed emergency planning zone in 2020, these would now be required to have emergency plans in place. Anything new that came forward always had to be looked at in a different light now because of the detailed emergency planning zone and the

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requirement on the Council to assure the regulators. Ms Attwood referred to the events taking place and explained that they would be using their PD rights under the temporary use. The sports pavilion itself also had conditions, which stated that the building should be used solely for the purposes ancillary to the use of the recreation ground. This limited the type of events that could take place in the sense that they would have to be ancillary to existing recreational use.

Councillor Somner raised the issue of existing caravans and mobile homes in the area, which whilst not commercial, were very much modular and in comparison to the proposed café building, were not as airtight or as contained. Ms Richardson said if any new applications came in for caravans and mobile homes the advice from the UKHSA would be to advise against them.

Councillor Somner referred to point 6.24 of the report in relation to licensing and asked Ms Attwood if she was aware of any licensing applications that were relevant to this proposal. Ms Attwood said she was not aware of any license applications currently but they would be viewed on their merits in line with the licensing legal framework. Councillor Somner raised a further query regarding the temporary timespan of the café over five years and asked if this was a standard Planning Officers would expect. Ms Attwood said that five years was the upper limit of what she would expect and if the issue was overturned Members were in a position to reduce that time.

Councillor Somner asked what sort of height barrier was currently in place on the site. Ms Attwood did not know the actual height of the barrier however, on a site visit had noted that it was open.

Councillor Mayes noted that if people in the pop-up café were having a picnic on the green they would not be covered by the DEPZ rules. He asked what provision there was within the West Berkshire system for accommodating the people on the fairground and in the café if there was an incident declared by AWE Burghfield. Ms Richardson said if the pop-up pub was operating she would expect the people to be able to go inside one of the existing buildings. In focusing on this particular application, the problem with the proposed building was the size of it in that it was 79sqm for 24 people, albeit there could be less there at any one time. Taking into account all the furniture there was not a lot of room and there was the risk that further people would try to go undercover within the proposed building in the event of a radiation emergency. If an emergency happened with some of the events that took place, people would potentially have to be evacuated and moved to reception or rest centres depending on the situation.

Councillor Law asked Ms Attwood to define her use of the word 'ancillary' when describing the café as ancillary to the recreation ground. Ms Attwood said there was no legal definition for ancillary but it would normally be taken to mean anything you would do as a person that you could normally do within that normal use. Ms Attwood clarified that if alcohol was to be served in the temporary café, there would need to be a license under a separate framework. The conditions proposed were for customer opening hours Monday to Friday 8am to 6pm, Saturdays 8am to 6pm and Sundays and Bank Holidays 9am to 2pm. Deliveries would be Monday to Friday 9.30am to 2pm, Saturdays 10am to 2pm and Sundays 10am to 1pm.

Mr Mehdi Rezaie, Interim Development Control Manager, referred to the definition of ancillary which was captured under the Planning Act 2016; the Sustainable Planning Act 2009 and the Integrated Planning Act of 1997 and defined ancillary to mean 'incidental to and necessarily associated with a high threshold of a use'. Previous case law established ancillary as being one which was subordinate to the principal use of the premise meaning that it must serve the purpose for the primary use and usually be of a smaller size and scale to the primary use but did not necessarily have to be small. The dominant use

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determined the character of the planning use as a whole in accordance to the entire country planning use class order 87 as amended.

Mr Rezaie referred to the comment made by Councillor Law in relation to changes to the structural foundation captured under section 55, and stated that this would be classed as development. A planning application would need to be made in that regard because it was operational works which required a builder's intervention, which would be a separate planning application in its own right.

Mr Rezaie drew Members' attention to paragraph 6.47 of the report and the Office for Nuclear Regulations which suggested that, if approved, they would ask the Secretary of State to call-in the application under section 77 of the Town & Country Planning Act. They would have a period of 21 days, post notification of Committee approval, to formally consider the application prior to potentially asking the Secretary of State to call-in the application. Mr Rezaie had looked at the provisions covered under the schedule 4 subsection of the MPO 2015 where there was a consultation direction, under the Town & Country Planning Act under subsection 5, subsection 1b which was the consultation direction of 2021, that gave provision for an application to be considered by the Secretary of State which also followed suit with the National Planning Policy Framework guidance notes for planning practitioners under paragraph 28, which prescribed that when considering the merits of an application, certain direction or weight was given to the Town & Country planning consultations direction of 2021. In the NPPF the direction to consult was reemphasised so the Secretary of State would technically exercise their powers under articles 18, subsection 4; articles 31 subsection 1; and articles 45 of the Town & Country Plan (the MPO).

### **Debate:**

Councillor Mackinnon said that it seemed the proposal was an example of what was undoubtedly a well-meaning regulation but was being applied in such a blanket way that it might begin to fail the communities affected by it. Ms Richardson's answers to many questions demonstrated she was working, quite properly, within regulations however some of the answers did not seem to get to the nub of what Members were asking. Exceptions to regulations or exceptions to statutory counsels were possible and it was for the Committee to decide on balance whether going against the recommendation was justified in the circumstances. It seemed to Councillor Mackinnon that customers of the café were likely to be those who would already be present in the vicinity to a large extent. The lack of protection afforded by a temporary structure, even if it was accepted that it was not as good as a permanent structure, was better than nothing at all in his view, which was currently often the case.

If the Committee was to go along with the Officers' recommendation, Councillor Mackinnon felt the community affected would be justifiably frustrated at that decision given the overall usage of the site which included football matches and beer festivals. Councillor Mackinnon noted if Members approved the application it would go to the ONR again to consider whether to call it into the Secretary of State. Overall, Councillor Mackinnon was leaning towards the benefits of the proposed café to the community, which would far outweigh what must be a minuscule risk in the event of an emergency. Councillor Mackinnon understood the point about the toilet facilities in the event of people having to remain in the building up to 48 hours and whilst 24 people with one toilet for 48 hours might be unpleasant, in the event of a nuclear emergency there would be other priorities. Highways' Officers had made no objections on parking or traffic grounds and whilst not diminishing the recommendation to refuse on nuclear regulation grounds, Councillor Mackinnon felt in this case it might well be justified and proposed approval of the application.

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Councillor Somner agreed with Councillor Mackinnon's overview of the situation and recognised the need of the community to get out and about, not just through the pandemic lockdown but in the current situation and how the proposed facility would add to the offer already given to residents in West Berkshire. It was clear what the Parish Council were trying to deliver to residents and whilst consultation from the ONR was not to be taken lightly, consideration had to be given to what residents wanted and needed. Councillor Somner stated that he was leaning towards approval, contrary to the officer recommendation for refusal.

Councillor Linden highlighted that five members of staff would also need to use the toilet facilities as well as 24 customers should the building be locked down for 48 hours, however, he agreed with the statements made by Councillors Mackinnon and Somner. The café's and pop-up ventures were popular with the vibrant communities in Burghfield and the surrounding areas, particularly for those who wanted to meet up and socialise and did not want to have to drive somewhere in order to do so. Councillor Linden's view was to support a suitably worded recommendation to go against refusal of the application.

Councillor Law said that, having read the report, he recognised that Members were not experts on nuclear regulations, or indeed all planning policy, but relied on the advice of Officers. If he were a layman he would be a bit confused and would lean towards listening to the advice of Officers and leaving it to the Applicants to challenge. However, having heard that if approval were given there would be a second review and if supporting Officer's recommendation meant an appeal by the Applicant, leading to the same direction, Councillor Law was interested to hear more about Councillor Linden's proposal for a suitably worded recommendation to go against refusal of the application.

The Chairman asked Ms Attwood to provide a list of conditions if Members were minded to approve the application and Ms Attwood ran through the suggested conditions.

Councillor Law said he wished to refine one item on the list of conditions provided and referred Members to paragraphs 6.7 and 6.8 of the report in respect to the cladding material being metal and not particularly attractive. The report went on to say that concerns with regards to materials being used could be overcome by the use of a pre-commencement condition and also stated it was considered that alternative cladding such as timber would make the building more appealing. Councillor Law said he agreed the current proposal was not an attractive proposition but would be happy to second Councillor Mackinnon's proposal to approve the application if the building was clad in timber.

As Councillor Mackinnon had proposed approval of the application, the Chairman asked him for his views now that he had heard the list of conditions from Ms Attwood and the additional one from Councillor Law regarding timber cladding. Councillor Mackinnon said he was happy to propose approval of the application subject to the conditions stated, including the one suggested by Councillor Law.

Ms Attwood said that in relation to the schedule of materials condition it might be too restrictive to request timber. A pre-commencement condition was proposed so that the details would come to Officers who would be able to view it against policies CS14 and CS19 and ensure the most suitable materials were used. Councillor Law did not wish to deviate from the condition enforcing the use of timber cladding as it was noted that this had been recommended by Officers in the report as being more appealing, which he was in agreement with.

Councillor Linden raised a concern around the issue of fire safety with the use of timber cladding.

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Councillor Somner agreed with the points about the use of timber and fire safety, and felt the use of Officer's determination pre-commencement would be beneficial in order to allow the option of brickwork, as outlined by the architect, which might also address some of the ONR issues.

The Chairman asked Mr Rezaie to comment specifically on the issue of cladding and anything else he wished to add before proceeding to a vote. Mr Rezaie said a prescribed condition for the use of timber cladding could be done but it would probably be easier for Officers to gauge the design given the pre-commencement as they would then have a palette of materials and or its visual appearance put before them for consideration. In addition, the issue would be put to the Conservation Area Design Officer who could comment on what their opinion was as opposed to just Planning Officers. The Chairman asked Mr Rezaie if there could be an Informative against the use of metal as it had been made clear that Members were not keen on the use of metal in the construction. Mr Rezaie said it could be outlined that the preference was that metal was not used in the construction of the café. Mr Rezaie highlighted however, that he had been led to believe during the meeting that part of the reason for the design and materials proposed, was on financial grounds or the potential viability of the application. In response to this, Mr Rezaie said there had not been a viability assessment or feasibility assessment carried out, which would need to be provided if later challenged. In his view Officers stood in good stead to put the request in for materials as requested.

The Chairman invited the Committee to vote on the proposal by Councillor Mackinnon, seconded by Councillor Law and at the vote the motion was carried.

**RESOLVED that** the Service Director - Development and Regulation be authorised to grant planning permission subject to the following conditions:

### Conditions

#### 1. Commencement of development

The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

#### 2. Approved plans

The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

- Location Plan and Block Plan drawing number 001 PL00 received 01.03.2022
- Proposed Site Plan drawing number 003 PL01 received 25.04.2022
- Proposed Floor Plan and Elevations drawing number 012 PL01 received 04.03.2022

except in respect of the materials shown on plan named proposed Floor Plan and Elevations drawing number 012 PL01 received 04.03.2022.

Reason: For the avoidance of doubt and in the interest of proper planning. Materials labels are not approved because the labelled materials were found not be acceptable to the character and appearance of the area. This matter will be dealt with via a pre-commencement condition.

**3. Temporary permission (restoration)**

The use hereby permitted shall be for a limited period being the period of 5 years from the date of this decision. The temporary café building shown in plan named Proposed Site Plan drawing number 003 PL01 received 25.04.2022 hereby permitted shall be removed and the land restored to its former condition on or before [date\*\*] in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

Reason: A permanent building would not be acceptable in this location for an extended period of time.

*\*\* Please, note the date will be entered when the decision is issued.*

**4. Schedule of materials (prior approval)**

The construction of the temporary café building shown in plan named Proposed Site Plan drawing number 003 PL01 received 25.04.2022 shall not take place until a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted, has been submitted to and approved in writing by the Local Planning Authority. Schedule of the materials shall include a product specification and photographs of Materials. Samples of materials shall be made available upon request. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that the external materials respect the character and appearance of the area. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006). A pre-commencement condition is required because the approved materials will be used throughout construction.

**5. CCTV and Security System Condition**

The café shall not occupied until details of CCTV and security system for the café have been submitted and approved in writing to the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the development designs out crime. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

**6. AWE Emergency Plan**

The temporary café building shown in plan named Proposed Site Plan drawing number 003 PL01 received 25.04.2022 shall not be occupied for the first time by any new occupant until a site-specific Emergency Plan tailored to that specific café occupant has been submitted to and approved in writing by the Local Planning Authority. The Emergency Plan shall provide policies and procedures for the preparedness and response to an incident at AWE



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Burghfield. Thereafter, the Cafe shall not be operated without the implementation of the approved Emergency Plan, or an approved revision with has been submitted to Local Planning Authority in writing.

The plan shall be kept up-to-date, and relevant to the occupant at all times. An amended version of the plan may be submitted to the Local Planning Authority for approval pursuant to this condition. The Local Planning Authority may at any time require the amendment of the Plan by giving notice pursuant to this condition; in which case the amended plan shall be submitted to the Local Planning Authority for approval within 1 month of notice being given.

Reason: The approval and implementation of a site-specific Emergency Plan is necessary to mitigate the residual risk posed to public safety by the close proximity of AWE Burghfield, to ensure appropriate preparedness and response in the event of an incident at AWE, and to ensure that the development does not adversely affect the AWE Off-Site Emergency Response Plan. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS8 of the West Berkshire Core Strategy 2006-2026.

Note: For queries relating to the content of the site-specific Emergency Plan, please contact the Joint Emergency Planning, West Berkshire Council, Council Offices, Market Street, Newbury, RG14 5LD. Tel: 01635 503535, Email: [emergencyplanning@westberks.gov.uk](mailto:emergencyplanning@westberks.gov.uk). Please quote the application reference.

### **7. Permitted uses within Class E**

The Temporary Cafe shown in plan named Proposed Site Plan drawing number 003 PL01 received 25.04.2022 shall be used for Class E (b) purposes which is for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises only and for no other purpose, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). This restriction shall apply notwithstanding any provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: The Temporary Cafés are located within Registered Village Green and it is important that the use remains ancillary to primary the recreation Ground. Other uses within Class E may not be for the purpose of better enjoyment of the green. The condition will prevent harm to existing green infrastructure by preventing incompatible uses on the site.

This condition is applied in accordance with the National Planning Policy Framework, Policies ADPP1, CS18 and CS19 of the West Berkshire Core Strategy (2006-2026).

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### **8. Customer opening hours**

The temporary café hereby permitted shall not be open to customers outside of the following hours:

Mondays to Fridays: 08:00 to 18:00  
Saturdays: 10:00 to 14:30  
Sundays and public holidays: 09:00 to 14:00

Reason: To safeguard the living conditions of surrounding occupiers. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

### **9. Delivery hours**

No deliveries shall be taken at or despatched from the site outside the following hours:

Mondays to Fridays: 09:30 to 14:00  
Saturdays: 10:00 to 13:00  
Sundays and public holidays: 10:00 to 13:00

Reason: To [safeguard the living conditions of surrounding occupiers and/or minimise the impact on the local road network during peak hours]. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026) and Policies OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

### **10. Hard landscaping (prior approval)**

The Temporary Cafe shown in plan named Proposed Site Plan drawing number 003 PL01 received 25.04.2022 hereby permitted shall not be first occupied until the hard landscaping of the site has been completed in accordance with a hard landscaping scheme that has first been submitted to and approved in writing by the Local Planning Authority. The hard landscaping scheme shall include details of any boundary treatments (e.g. walls, fences) and hard surfaced areas (e.g. driveways, paths, patios, decking) to be provided as part of the development.

Reason: Landscaping is an integral element of achieving high quality design. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.

### **11. Soft landscaping (prior approval)**

The Temporary Cafe shown in plan named Proposed Site Plan drawing number 003 PL01 received 25.04.2022 shall be first occupied until a detailed soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The soft landscaping scheme shall include detailed plans, planting and retention schedule, programme of works, and any other supporting information. All soft landscaping works shall be completed in accordance with the approved soft landscaping scheme within

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the first planting season following completion of building operations / first occupation of the temporary café (whichever occurs first). Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within five years of completion of this completion of the approved soft landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.

Reason: Landscaping is an integral element of achieving high quality design. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.

### **12. Sustainable Drainage Measures**

No development shall take place until details of sustainable drainage methods (SuDS) to be implemented within the site have been submitted to and approved in writing by the Local Planning Authority. The planning, design and implementation of sustainable drainage methods (SuDS) should be carried out in accordance with the Non-Statutory Technical Standards for SuDS (2015), the SuDS Manual C753 (2015) and the WBC SuDS Supplementary Planning Document December (2018) with particular emphasis on green SuDS that provide environmental/biodiversity benefits and water re-use

Reason: To ensure appropriate sustainable drainage measure, in accordance with the National Planning Policy Framework, and Policy CS15 of the West Berkshire Core Strategy 2006-2026. A pre-commencement condition is required because insufficient information accompanies the application and such measures may need to be incorporated into early building operations.

### **13. Construction method statement**

No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for:

- (a) A site set-up plan during the works;
- (b) Parking of vehicles of site operatives and visitors;
- (c) Loading and unloading of plant and materials;
- (d) Storage of plant and materials used in constructing the development;
- (e) Erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing;
- (f) Temporary access arrangements to the site, and any temporary hard-standing;
- (g) Measures to control dust, dirt, noise, vibrations, odours, surface water run-off, and pests/vermin during construction;
- (h) A scheme for recycling/disposing of waste resulting from demolition and construction works;
- (i) Hours of construction and demolition work;
- (j) Hours of deliveries and preferred haulage routes;

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- (k) An emergency plan providing policies and procedures for the preparedness and response to an incident at AWE Aldermaston/Burghfield during demolition and construction work.

Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007). A pre-commencement condition is required because the CMS must be adhered to during all demolition and construction operations.

### **14. Construction Environmental Management Plan**

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- (a) Risk assessment of potentially damaging construction activities.
- (b) Identification of "biodiversity protection zones".
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- (d) The location and timing of sensitive works to avoid harm to biodiversity features.
- (e) The times during construction when specialist ecologists need to be present on site to oversee works.
- (f) Responsible persons and lines of communication.
- (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- (h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure biodiversity is protected through the development constructions. A pre-commencement condition is required because the CEMP will need to be adhered to throughout construction.

### **Informatives**

#### **Tree protection precautions informative note:**

- To ensure that the trees, which are to be retained, are protected from damage, ensure that all works occur in a direction away from the trees.
- In addition that no materials are stored within close proximity i.e. underneath the canopy of trees to be retained.
- Ensure that all mixing of materials that could be harmful to tree roots is done well away from trees (outside the canopy drip line) and downhill of the trees if on a slope, to avoid contamination of the soil.
- To ensure the above, erect chestnut pale fencing on a scaffold framework

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at least out to the canopy extent to preserve rooting areas from compaction, chemicals or other unnatural substances washing into the soil.

- If this is not possible due to working room / access requirements The ground under the trees' canopies on the side of construction / access should be covered by 7.5cm of woodchip or a compressible material such as sharp sand, and covered with plywood sheets / scaffold boards to prevent compaction of the soil and roots. This could be underlain by a non permeable membrane to prevent lime based products / chemicals entering the soil
- If there are any existing roots in situ and the excavation is not to be immediately filled in, then they should be covered by loose soil or dry Hessian sacking to prevent desiccation or frost damage. If required, the minimum amount of root could be cut back to using a sharp knife.
- If lime based products are to be used for strip foundations then any roots found should be protected by a non permeable membrane prior to the laying of concrete.

### **Foundation development**

This development only applies to erection of a temporary cafe (prefabricated unit). For clarity, This permission does not cover the foundation works or associated enabling works because the details were not included in the application description or submission. A separate application would be required for foundation works or associated enabling works. Future applications would then be assessed on its individual merits.

### **Materials informative**

Committee members would like to applicant to be mindful that they consider metal cladding not to be acceptable in terms of character of the area. They request the applicant seek alternative materials for example timber or another materials which is in keeping with the local character of the area.

## **(2) Application No. & Parish: 22/01062/FULD - Shortheath House, Shortheath Lane, Sulhamstead, Reading**

*(All Councillors present declared a personal interest in Agenda Item 3(2) by virtue of the fact that Mr Keith Chopping (supporter) and Mr John Cornwell (agent) were known to them. As their interest was personal and not prejudicial or a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.)*

*(Councillor Geoff Mayes declared a personal interest in Agenda Item 3(2) by virtue of the fact that he had met all members of the Chopping family including Keith Chopping's wife and daughter, as they were local Councillors in the area where he lived. As his interest was personal and not prejudicial or a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.)*

The Committee considered a report (Agenda Item 3(2)) concerning Planning Application 22/01062 in respect of the conversion and extension of an existing outbuilding to form a single dwelling.

Mr Matthew Shepherd (Senior Planning Officer) introduced the item and highlighted the key points in the report and update report.

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In accordance with the Council's Constitution, Mr Keith Chopping and Mrs Lucy Chopping, supporters, Mr John Cornwell (agent) and Councillor Ross Mackinnon (Ward Member) addressed the Committee on this application.

### **Supporter Representations:**

Mr Keith Chopping and his daughter Mrs Lucy Chopping in addressing the Committee raised the following points:

- Mr Chopping stated that there was already an existing approval on the building to turn it into a residence. This had been granted in 2020 when permitted development rights were removed.
- The current application aimed to improve the living quality of the building.
- There had been no objections to the proposal locally. Mr Chopping and his wife were the owners of the building and the occupants of the building would be his daughter and her family.
- Mrs Chopping provided some background to why the application had been submitted. Just over three years ago Mrs Chopping had discussed an idea with her parents to discuss converting the stables into a home for herself and her family. This would enable her parents to stay in their house for longer without the need to downsize. This would mean that she would be available to help her parents maintain the home they had lived in for the last 33 years. With the help of her brothers, permission had been received for the conversion however, due to Covid everything had needed to be put on hold.
- In the past two years Mrs Chopping explained that both of her parents had ended up in hospital and her mum's mobility had decreased so much that she required a wheelchair.
- Mrs Chopping explained that she had helped her parents as much as possible with daily visits but the end goal was to be there for them permanently. This brought her on to the latest application, which was being discussed.
- Since Covid both Mrs Chopping and her husband had been lucky enough to remain in full time employment but as with lots of companies, there had been changes. Her husband now worked from home permanently and Mrs Chopping explained that she had been offered a new position, which meant that she could work from home part time.
- The original application had been for three bedrooms with two on the ground floor along with a kitchen diner and then a bedroom and living room upstairs. The new application had been submitted, which added in an office on the ground floor. This would move all three bedrooms upstairs hence the plan to raise the roof slightly to make it more comfortable.
- The gable end had been replicated to be as sympathetic as possible to the existing building. The aim was also to make the house more eco-friendly. Solar panels and a heat pump were proposed and the two gable ends had been connected with the glass windows, which would hopefully house the solar panels, without having to put them on the roof.
- Mrs Chopping stated she was asking the Committee on behalf of her family and her parents to allow them to proceed with the proposal. They were happy to accept any conditions proposed but the proposal needed to be progressed soon for the sake of her family.

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- Mr Chopping noted that the Officers' objections were under four headings including the roof that was being raised; the glass to the front of the proposal; the extension itself and an issue with bats (long eared brown bats).
- The roof of the building was reaching the end of its useful life and was formed from concrete slates. The roof would need to be redone anyway so therefore it had been felt this would provide an opportunity to raise it by 800mm to make it more liveable inside.
- The glass to the front of the proposal that the Officers were concerned about was a clever way of insulating the building. The extension itself just covered the area of hard standing of the existing building.

### **Member Questions to the Supporters:**

Councillor Owen Jeffery asked what Mr Chopping felt would happen regarding the bats bearing in mind the previous certificate had expired. Mrs Chopping stated that they would get a new survey undertaken. Natural England had confirmed that they were happy to renew the license subject to a new survey. Mr Chopping stated that the family had been prepared to agree to a condition to provide this license however, he had been startled to learn from the Ecology Officer that you could not condition a bat license.

Councillor Geoff Mayes noted there were two problems in his mind, firstly the request to raise the roof and he queried if the roof slope would be retained. Mrs Chopping confirmed that it would be retained exactly the same as it was currently. Councillor Mayes noted that the barn overhang would need to be removed and Mr Chopping stated that the plan was to remove this permanently. Councillor Mayes commented that all the existing roof timbering would also need removing and he queried if the wood would be reused. Mrs Chopping commented that they would like to reuse it to retain some of the character. Councillor Mayes noted the desire to replace the concrete slates with clay tiles. Mr Chopping stated there was a budget choice to be made on this point because concrete slates did not cost as much as clay tiles. The concrete slates might be reused however, he felt it would be nice to have clay tiles if it could be afforded within the budget.

### **Agent Representations:**

Mr John Cornwell in addressing the Committee raised the following points:

- Whether the application was successful depended on to what degree it met the seven criteria and policy.
- Criterion one said 'the proposal involved a building that was structurally sound and capable of conversion without substantial rebuilding, extension or alteration'. The key word here was 'substantial'. The explanatory text stated that 'the building should be capable of being converted and accommodated within the existing landscape without significant effects on the rural character of the area including light pollution. It was expected that building works would be relatively minor and would involve the use of matching materials'.
- The proposal delivered a 35 percent extension to the existing structure. Mr Cornwell had spent much of his career working in the metropolitan green belt, which had the most restrictive planning policy in the country. Even there, existing dwellings were allowed to increase their original footprint by 50 percent. In Mr Cornwell's view what was being asked for as part of the proposal was not excessive and it was all a matter of degree.
- Members who had attended the site visit would have noticed that there was no visibility between the application site and the outside world. It was wholly

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contained within a deep vegetation screen. Mr Cornwell had lived in the area for 36 years and walked past the site regularly and he stated it was not possible to see the site at all. Therefore Mr Cornwell did not agree that the proposal did not meet Criteria four and five because it did not have any adverse impact on the rural character because it could not be seen. If the site was next to a public highway then it would be a very different situation and might contravene the policy. As the site could not be seen Mr Cornwell queried where the harm was.

### **Member Questions to the Agent:**

Councillor Alan Law noted that Mr Cornwell quoted the officers as saying the application was not compliant with subsection four. He felt that Mr Cornwell had misread this as Officers were not refusing on subsection four but were refusing on subsections one, six and seven. Councillor Law queried if this changed any of Mr Cornwell's opinions. Mr Cornwell referred to subsection six and stated that the building was using matching materials and he was sure the applicant would be prepared to put clay tiles on the roof. The extensions were not significant in Mr Cornwell's view. The glazed sun lobby was for insulation purposes but because it was fully glazed it would not cover the existing elevation, which would be able to be seen through the glazing. The proposed extension matched an existing extension at the other end of the elevation. Mr Cornwell did also not regard a two foot extension to the roof as material. All matters being considered were ones of opinion and degree and it was about how the policy was applied.

Mr Cornwell referred to the bat issue, which he understood could not be conditioned. If Members were happy with the proposal but had to refuse it due to the bat survey matter Mr Cornwell explained that there would be no issue conducting a bat survey. The season for this was April to September, so a survey could be submitted by the end of September 2022. The application would then be re-submitted. The Chairman stated that he would need to seek professional advice on this point.

### **Ward Member Representation:**

Councillor Mackinnon in addressing the Committee raised the following points:

- No views from residents had been raised regarding the proposal. There had been no objections and no letters of support. This was largely down to the fact, as Mr Cornwell had highlighted in his representation, that the site was completely enclosed and not visible from any public viewpoint.

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

There were no questions raised by Members.

### **Member Questions to Officers**

Councillor Mackinnon stated that he was in agreement with Mr Cornwell that the key word was 'substantial'. Councillor Mackinnon queried the definition of what should be considered 'substantial' and asked Mr Shepherd if there was a threshold or if it was a judgement call. Mr Shepherd confirmed that there was not a percentage requirement within the policy with regards to what was classed as 'substantial', there were however supporting details under point 4.34 of Policy C4 that detailed that works would need to be relatively minor and it came down to an opinion on the application. The proposal would cause a 38 percent increase in floor area from the original. Mr Shepherd explained that the Nationally Described Space Standards were referred to when judging an application and what was the bare minimum that was accepted as a dwelling. Officers had calculated this to be 133 percent larger than the Nationally Described Space Standards. Each section of the proposal had to be considered in terms of whether it was classed as



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'substantial', including raising the ridgeline or the proposed change to the gable end. Mr Shepherd stated that what was considered substantial was a matter for debate.

Councillor Mackinnon referred to the 38 percent increase mentioned by Officers and stated that he could not find this detailed within the report. Mr Mehdi Rezaie commented that looking at the report retrospectively, detail on increased footprints should have been included and this would be noted for future reports. One area that had not been included in the report was the Nationally Described Space Standards of 2015. For a dwelling house that comprised of two storeys, was of a three bedroom nature and accommodated six persons as depicted in the proposal, the Nationally Described Space Standards stipulated that the floor area at a minimum should be 102m<sup>2</sup>. The proposal was for 237m<sup>2</sup>, which was a 133 percent increase over the Nationally Prescribed Space Standards. Looking at the previous permission, which had established a principle there was there was a footprint of 171m<sup>2</sup>, this was a 70 percent increase over the Nationally Described Space Standards. Officers had needed to make a judgement as there was no clear definition regarding what should be considered as substantial. Taking the past permission into account, it had been accompanied by two planning conditions that removed permitted development rights, which had been done with the intention to not further exacerbate the scale of the development. The factors had to be weighed up in terms of the previous consent. Mr Rezaie explained that the previous permission also measured beyond the Nationally Described Space Standards and the applicant could choose to commence this at any time. The proposal as it stood was a significantly large increase of 133 percent over what was currently advised.

Councillor Mackinnon asked a hypothetical question of whether it would be acceptable under the policy if the existing building itself was 133 percent larger than the existing Nationally Described Space Standards and the conversion did not involve any expansion. Mr Rezaie stated that the Nationally Described Space Standards were in place purely for indicative minimum standards. Councillor Mackinnon clarified the point he was making regarding the policy and explained that if there was already a building in place that was structurally sound that was the size of the proposal, the conversion of the building to a dwelling would be acceptable under Policy C4. Mr Shepherd confirmed that this was correct and that conversion of the original dwelling without any extension or alterations that were above the Nationally Described Space Standards would be acceptable.

Councillor Richard Somner referred to the issue of the bats. He had assumed when reading the report that this was something that could be conditioned until the update report had been published confirming this was not possible. Councillor Somner referred to the previously approved application and queried if the bat survey would need to be done anyway for the applicant to progress with it. Mr Shepherd stated that his understanding was that from a planning perspective, the applicant had fulfilled the planning conditions and could implement the permission given in 2020 but to do so they would have to apply for a license from Natural England. This would however, not require the applicant to come back to the local planning authority for approval.

Councillor Law stated that one of the issues was that the application fell between a conversion and a substantial redevelopment. The possible reason why Officers had not included Nationally Described Space Standards including volume and space comparisons was because this was normally only used when looking at extensions. This would fall under Policy C6. Councillor Law noted that the report referenced C4 however queried why C6 had not also been looked at.

Secondly, Councillor Law referred to the point raised by the planning consultant and Councillor Mackinnon and queried if the words 'substantial extension' had been missed or if it has been purposefully excluded. Councillor Law felt this was an important point

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because the decision depended on what was considered as substantial. The Chairman felt that it was possibly an error in terms or where the comma was placed.

Mr Shepherd firstly commented on why Officers had not used Policy C6. Policy C6 looked at the extension of existing dwellings in the countryside and it was clear that development had not started and the structure was still a stable block. Therefore applying Policy C6 would have been incorrect because it was not an existing dwelling. If the structure was converted and an application for an extension was submitted in the future it was possible that Policy C6 would be referred to.

In response to Councillor Law's second point and Policy C4, regarding whether the word 'extension' had been missed, the policy was worded as follows 'substantial rebuilding, extension or alteration'. It was Mr Shepherd's interpretation that the policy chose not to repeat the word 'substantial'.

Councillor Law raised a supplementary question and asked if the existing extant permission went ahead, could the applicant apply for future extensions including raising the roof. Mr Shepherd confirmed that this was correct and Officers would have to judge any future application on its individual merits.

Councillor Tony Linden referred to Councillor Sommer's point concerning the bats. He asked if he was correct in understanding that the applicant would not be required to submit a new application and would only be required to submit a revised report as part of the legal agreement. The Chairman asked Councillor Linden to clarify the question. Councillor Linden recalled that Mr Chopping had referred to putting in a free application regarding the bats. Mr Shepherd stated that the rule was that there could be a resubmission within one year of a similar application proposal and this was free. This was what the Applicant's agent had been referring to.

Councillor Geoff Mayes queried if the roof was not raised as proposed if the space in the roof would be sufficient for human habitation. Mr Shepherd stated that the previous Officer had considered this as part of the 2020 application and considered that there was sufficient space to achieve the bedrooms and floor space. It was possible however, that raising the roof height would provide further usable floor space.

The Chairman queried, if the Committee was minded to approve the application, if it could be approved subject to the completion of a satisfactory bat survey. Mr Shepherd stated that the Officer advice was that the completion of a bat survey should not be included as a condition because it would not be possible to take account of all the issues that could arise.

### **Debate:**

Councillor Mackinnon firstly referred to the bat issue that required further discussion however, suggested this be put aside to enable consideration of the proposal. The word 'substantial' was the word of importance and in the absence of specific guidelines the area requiring judgement was what should be considered a substantial extension and whether a 38 percent increase was considered substantial. Councillor Mackinnon also felt that the site visit was something that needed to be taken into account. Members who attended this would have seen the extension marked out on the ground at the gable ends and could observe the roof height. Based on the site visit Councillor Mackinnon struggled to see how the proposed increases could be classed as a substantial extension however, he acknowledged that this was a judgement other Committee Members would have to make. Councillor Mackinnon was leaning towards the view that the proposed extension was not substantial for the reasons he had outlined.

Councillor Law stated he was on the cusp regarding whether the proposal was substantial or not. There were clearly five reasons that the Officers were giving for refusal

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of the application. He was mindful of the bat matter and there was uncertainty regarding how this should be handled. There was also a matter of debate over whether the proposal was substantial or not under subsection one of Policy C4 and Councillor Law added that there was also still subsections six and seven to look at. A design objection had also been introduced with the update report. Councillor Law felt that if the application was not connected to a previous Member of the Council he would be minded to refuse it. Councillor Law was concerned regarding how it would look if the application was to be approved.

Councillor Somner acknowledged the points raised by Councillor Law however, was of a different view. Councillor Somner saw an applicant that was desperately trying to meet the criteria and had fallen short of meeting the policy. Councillor Somner felt it came down to how material the variances were. He had not been able to join the site visit however, was looking at the proposal in the wider context of its setting. Many properties were having glass frontages installed in modern times to benefit from views. Councillor Somner felt that Officers needed to seek more information on such applications moving forward. Councillor Somner agreed with Councillor Law that it was not easy to make a decision regarding the application. He understood both sides of the argument. He understood that the bat issue needed resolving however, this would not sort the other matters that would come up again if the application was re-submitted. Councillor Somner wished to hear the views of other Committee Members before making his decision.

The Chairman acknowledged that it was not an easy decision notwithstanding that it should be irrelevant that Members of the Committee knew the applicant. The Council took account of personal circumstances but it was a policy driven Council and the Chairman stated he would ask for guidance from Officers on this point.

Councillor Mayes stated that there was a problem in that the property was in the countryside, outside of the boundary and in the past it had always been assumed that an annex to a major property could end up in separate ownership. The current application involved a parental home with an annex, which was deemed separate in planning terms. He believed the proposal was a large extension however, did not feel that it was substantial in terms of the volume. Councillor Mayes was therefore inclined to go against the Officer recommendation and approve planning permission.

Councillor Linden agreed it was a cusp issue however, the site was not within the Area of Outstanding Natural Beauty and he queried how much harm would be caused by the application if approved. It was larger than Members would have liked however, for Councillor Linden it came down to the question of what harm would be caused. He also acknowledged the matter of the bats.

The Chairman asked Officers for advice regarding how the bat matter could be dealt with should the Committee be minded to approve the application. Mr Shepherd stated that he would look for advice from Legal colleagues however, he advised against refusing the application on the bat issues alone and that Members should consider the Policy C4 issue.

Mr Rezaie stated that there were three approaches that could be taken to determining the application. Members could refuse the application based on the issue of design, scale and being substantial, alongside the Officers other recommendation regarding the ecology matter, which had resulted from there not being sufficient information to enable the Officer to make a sound judgement. Alternatively Members could refuse the application disregarding the earlier refusal reasons regarding design, scale and the substantial matter and focus wholly on the bat issue. This approach would mean the applicant would have one refusal reason to address should the application be heard at Committee again. Mr Rezaie was conscious that a time extension had already been

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applied to the application, which ran until Friday 15<sup>th</sup> July and therefore there was a third option possible, which would be to defer the application and allow the applicant to submit the ecological surveys. Normally applications were not held for such a long time however, given the circumstances this was deemed acceptable and would allow time for the Local Authority to receive a further supplement application on ecology. Mr Rezaie added that the applicant could also not appeal for non-determination following Friday 15<sup>th</sup> July 2022. The item would then be referred to a future Committee meeting to consider the matter of ecology. The Chairman thanked Mr Rezaie for his guidance. He appreciated the pressures around planning timescales and the risk of appeal for non-determination and equally the pressure that local authorities needed to deal with applications in the prescribed time however, on occasion scope for negotiation was required to allow for the provision of information. The Chairman was surprised the applicant had not been informed regarding the bat survey issue.

Ms Armour advised that there was possibly a further option in that the resolution could be framed so that the application was approved subject to a satisfactory bat survey being received, in the same way that applications were sometimes subject to a S106 Agreement. She was aware that Planning were reluctant to take this approach but felt it needed to be raised so Members could consider each option. Mr Rezaie stated it was important to consider the risks associated with conditioning an ecological matter. Ms Armour stressed that she was not suggesting the matter be conditioned and explained the decision granting permission would not be issued unless a satisfactory bat survey was received, and if a satisfactory bat survey was not received, within a specified period, the application would be refused. This would be in the same way decisions were often subject to a S106 Agreement. The decision would not be issued until the bat survey was received and deemed satisfactory. Ms Armour further explained that the matter would be delegated to Officers and if a satisfactory bat survey was not submitted the application would be refused or the applicant might choose to withdraw the application.

Mr Rezaie stated that the issue with the approach suggested by Legal was that the information that was re-submitted could be deemed unacceptable and refusal reasons would be required. The Chairman noted that if this was the case then the permission would not be granted and any resolution would need framing in this way.

Councillor Owen Jeffery explained that he had been required to substitute for Councillor Macro at late notice and therefore he had not been able to attend the site visit or have the benefit of having a long time to read the paperwork. Councillor Jeffery felt there seemed to be a complex interplay of situations and he would feel reluctant to agree if the Committee was to refuse the application when there were so many issues that were very debatable. Councillor Jeffery felt supportive of the route suggested by Legal.

Councillor Mackinnon referred to the matter of whether the proposal was substantial or on the cusp. Even if the application was to be considered as substantial, the Committee was still able to view the application as an exception to the policy and Councillor Mackinnon felt that given the enclosed nature of the site this would be a good reason. Councillor Mackinnon felt that the suggested approach from Legal seemed sensible.

Councillor Somner asked for clarity on whether the option suggested by Legal was better than deferring the application. Ms Armour stated that this was probably a question for Planning Officers however, with the option she had outlined, if a satisfactory bat survey was not received then refusal reasons would be required. Mr Shepherd stated that Officers were being requested not to delay the determination of applications for important documents such as for protected species. To be consistent across applications, Officers normally looked to refuse such applications rather than stock pile them to deal with these issues. If the documents were submitted and were unacceptable it was highly likely that

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the application would have to return to Committee due to requiring further reasons for refusal.

Councillor Law referred to the issue of the bats and based on this would be more supportive of deferring the application. The Committee however still needed to make a decision regarding whether or not the proposal was considered to be substantial. Councillor Law believed Councillor Mackinnon had implied the application was against policy and therefore an exceptional reason would be required to approve it. Councillor Law did not feel that the reason given, regarding the site being very enclosed, was exceptional and would cause a precedent.

The Chairman believed it was within the power of the Committee to approve something that was against policy if there were exceptional reasons and asked for guidance from Planning Officers on this point. The Chairman recalled in the past that such applications had been referred up to District Planning Committee for consideration, which was an added level of complexity. He asked for guidance on whether the application should be deferred; approved subject to a bat survey or if it was against policy. Councillor Mackinnon acknowledged Councillors Law’s point regarding the application being against policy and stated that he wished to withdraw the comment he had made. He clarified that he felt that the application was not against policy because he did not feel it was substantial.

Mr Rezaie advised against adding a condition for a bat survey or approving it subject to a bat survey because the bat survey itself could cause issues to emerge that conflicted with policy. Mr Rezaie stated that his advice would be to defer the application.

Councillor Law proposed that the application be deferred. This would provide time for Members to further consider the application and whether it was substantial. It would also provide the applicant time to submit a bat survey. Councillor Somner seconded the proposal by Councillor Law and suggested more in depth pre-application conversations needed to take place. Many of the issues discussed could have been addressed in advance of the Committee meeting. Councillor Somner supported the proposal of deferral and requested continued conversation between all parties involved to ensure all issues were fully understood. Any report that returned to the Committee needed to be completely clear and include all relevant percentages including increases from the preapproved application.

The Chairman invited the Committee to vote on the proposal by Councillor Law, seconded by Councillor Somner. At the vote the motion was approved.

**RESOLVED that** the application was deferred to a later Committee to allow time for an updated ecology survey to be undertaken.

*(The meeting commenced at 6.30 pm and closed at 9.30 pm)*

**CHAIRMAN** .....

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

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