

# Notice of Meeting

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## Western Area Planning Committee

**Wednesday, 13 November, 2013 at 6.30pm**

**in Council Chamber Council Offices  
Market Street Newbury**

### **Members Interests**

Note: If you consider you may have an interest in any Planning Application included on this agenda then please seek early advice from the appropriate officers.

Date of despatch of Agenda: Tuesday, 5 November 2013

### **FURTHER INFORMATION FOR MEMBERS OF THE PUBLIC**

Plans relating to the Planning Applications to be considered at the meeting can be viewed in the Council Chamber, Market Street, Newbury between 5.30pm and 6.30pm on the day of the meeting.

No new information may be produced to Committee on the night (this does not prevent applicants or objectors raising new points verbally). If objectors or applicants wish to introduce new additional material they must provide such material to planning officers at least 5 clear working days before the meeting (in line with the Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002).

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact the Planning Team on (01635) 519148

Email: [planapps@westberks.gov.uk](mailto:planapps@westberks.gov.uk)

Further information, Planning Applications and Minutes are also available on the Council's website at [www.westberks.gov.uk](http://www.westberks.gov.uk)

Any queries relating to the Committee should be directed to Jenny Legge on (01635) 519441 / 503043 / 5031 Email: [ewalker@westberks.gov.uk](mailto:ewalker@westberks.gov.uk) / [jlegge@westberks.gov.uk](mailto:jlegge@westberks.gov.uk) / [jcollett@westberks.gov.uk](mailto:jcollett@westberks.gov.uk)



**Agenda - Western Area Planning Committee to be held on Wednesday, 13 November 2013 (continued)**

- To:** Councillors David Allen, Jeff Beck, Paul Bryant (Chairman), George Chandler, Hilary Cole, Paul Hewer, Roger Hunneman, Garth Simpson, Anthony Stansfeld, Julian Swift-Hook, Ieuan Tuck and Virginia von Celsing (Vice-Chairman)
- Substitutes:** Councillors Howard Bairstow, Billy Drummond, Adrian Edwards, Mike Johnston, Gwen Mason, Andrew Rowles and Tony Vickers
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# Agenda

## Part I

**Page No.**

1. **Apologies**  
To receive apologies for inability to attend the meeting (if any).
  2. **Minutes** 1 - 20  
To approve as a correct record the Minutes of the meetings of this Committee held on 21 August 2013 and 2 October 2013.
  3. **Declarations of Interest**  
To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or other interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).
  4. **Schedule of Planning Applications**  
*(Note: The Chairman, with the consent of the Committee, reserves the right to alter the order of business on this agenda based on public interest and participation in individual applications).*
- (1) **Application No. and Parish: 13/01795/FULD - Western End, Newbury** 21 - 32
- Proposal:** Proposed sub-division of 21 Western End, Newbury from a 3 bedroom house to two 1 bedroom apartments. Minor alterations to 21A and 21B. Erection of two 1 bedroom apartments on land at rear of 21, 21A and 21B Western End and to be provided with private amenity and parking.
- Location:** 21, 21A and 21B and Land at Western End, Newbury
- Applicant:** Mr A Butler
- Recommendation:** To **DELEGATE** to the Head of Planning and Countryside to **REFUSE** planning permission

**Agenda - Western Area Planning Committee to be held on Wednesday, 13 November 2013 (continued)**

**Items for Information**

5. **Appeal Decisions relating to Western Area Planning Committee** 33 - 48  
*Purpose: To inform Members of the results of recent appeal decisions relating to the Western Area Planning Committee.*

**Background Papers**

- (a) The West Berkshire Core Strategy 2006-2026.
- (b) The West Berkshire District Local Plan (Saved Policies September 2007), the Replacement Minerals Local Plan for Berkshire, the Waste Local Plan for Berkshire and relevant Supplementary Planning Guidance and Documents.
- (c) Any previous planning applications for the site, together with correspondence and report(s) on those applications.
- (d) The case file for the current application comprising plans, application forms, correspondence and case officer's notes.
- (e) The Human Rights Act.

Andy Day  
Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.

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## **WESTERN AREA PLANNING COMMITTEE**

### **MINUTES OF THE MEETING HELD ON WEDNESDAY, 21 AUGUST 2013**

**Councillors Present:** David Allen, Howard Bairstow (Substitute) (In place of Ieuan Tuck), Jeff Beck, Paul Bryant (Chairman), George Chandler, Hilary Cole, Paul Hower, Roger Hunneman, Garth Simpson, Anthony Stansfeld and Virginia von Celsing (Vice-Chairman)

**Also Present:** Emmanuel Alozie (Solicitor), Jessica Bailiss (Policy Officer (Executive Support)) and Derek Carnegie

**Apologies for inability to attend the meeting:** Councillor Julian Swift-Hook and Councillor Ieuan Tuck

#### **PART I**

##### **21. Minutes**

The Minutes of the meeting held on 31 July were approved as a true and correct record and signed by the Chairman.

Councillor Jeff Beck stated that they were still waiting on a legal opinion to be provided by Legal on the conditions. It was confirmed that this would be provided to Members shortly.

##### **22. Declarations of Interest**

Councillors David Allen, Jeff Beck and Howard Bairstow declared an interest in Agenda Item(s) 4(1), but reported that as their interest was personal and not prejudicial, they determined to remain to take part in the debate and vote on the matter.

##### **23. Schedule of Planning Applications**

###### **23(1) Application No. and Parish:13/00835/FULEXT - Mill Lane, Newbury.**

*Councillors David Allen, Jeff Beck and Howard Bairstow declared a personal interest in Agenda item 4(1) by virtue of the fact that they were a Member of Newbury Town Council and had been part of the Planning and Highway's Committee meeting which had considered the application, however they would consider the application afresh. As their interest was personal and not prejudicial or a disclosable pecuniary interest they determined to take part in the debate and vote on the matter).*

The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 13/00835/FULEXT Mill Lane, Newbury in respect of the redevelopment of the site and erection of 37 dwellings with 1500m<sup>2</sup> of office space and associated access, parking and open space.

In accordance with the Council's Constitution, Councillor Phil Barnett, Parish Council representative and Mr Jonathan Headland, Mr Simon Kirk and Mr Nick Paterson-Neild, applicant/agent, addressed the Committee on this application.

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Derek Carnegie introduced the application. He summarised that the application was contrary to the Core Strategy, as the land was protected for employment purposes only under policy designation CS9. The Council needed to be careful to ensure that there was not a shortfall of employment accommodation by 2026 and to avoid using green field areas to fill employment need. However the application satisfied the 5 criterion of Policy HSG1, which needed to be satisfied before a development became acceptable. The application was also in accordance with the three sustainability dimensions of the NPPF including economic, social and environmental. The Core Strategy stated that there was a shortfall of offices across the district to 2026 and the additional offices proposed as part of the application would assist this.

Derek Carnegie stated that other material considerations must be taken into account by Members such as the land being vacant for the past 4 years, housing provision, affordable housing provision and the site being in a very sustainable location. Therefore the application was considered by Officers to be on balance and if approved CS9 would not substantially be undermined.

Councillor Jeff Beck referred to page 8 of the agenda. The Environmental Agency stated 'no piling' in their response to the application however, on page 18 of the agenda there was a condition on piling. Councillor Beck queried whether piling was allowed. Derek Carnegie confirmed that if considered safe an agreement on piling could be reached with the applicant. Councillor Paul Bryant highlighted that the Environmental Agency were most likely referring to impact piling. Derek Carnegie confirmed that if piling was suggested this would be evaluated before being agreed.

Councillor Beck referred to page 9 of the agenda and felt that the amount designated for Thames Valley Police was an unusual amount. Derek Carnegie confirmed that Thames Valley Police were often consulted regarding S106 money. The sum of money within the report referred to money required for extra provision as a result of the application if it was approved.

Councillor Beck referred to page 19 of the agenda which contained details about the air quality impact assessment. Derek Carnegie confirmed that he had spoken to the Senior Environmental Control Officer who had stated they were concerned regarding the potential increased traffic caused as a result of the development. The Highway's Department had given the view that the traffic from the proposed site would be indifferent to the traffic levels caused by Travis Perkins.

Finally Councillor Beck raised a question about electric charging points on the proposed site and felt that these needed to be considered. Councillor Hilary Cole stated that electrical charging points were usually incorporated as part of commercial sites rather than residential ones.

Councillor Cole felt that it would have been useful for Members to be reminded of the previous proposal that was refused and suggested that if the application went to the District Planning Committee, this should be provided.

Phil Barnett in addressing the Committee raised the following points:

- The Newbury Town Council Planning and Highways Committee (NTCP&HC) had raised varying views on the application when considering it;
- The NTCP&HC had supported the provision of 37 houses on the site as it was in a good location for the town centre and would also provide much needed affordable housing;
- The site had been an eye sore for 4 years;

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- The NTCP&HC were not in support of the office accommodation aspect of the application. The town was already well endowed with vacant units;
- The Town Council were happier with the current application than the previous application and the benefits it would bring to the area;
- Councillor Barnett was keen to see benefit to the surrounding area and stated that he would like to see S106 contribution for green areas elsewhere in the town;
- He was keen to see local roads unaffected by parking from the development.

Councillor Roger Hunneman stated that Members needed to consider if they would rather see the site remain empty or alternatively agree the application which was a compromise. He stated that he would have rather seen 100% housing on the site however, understood the constraint placed on the developer.

Mr Jonathan Headland, Mr Simon Kirk and Mr Nick Paterson-Neild in addressing the Committee raised the following points:

- The application supported the 12 principles of the NPPF. It also supported the 3 dimensions of the NPPF in that the development was sustainable economically, socially and environmentally;
- The site had been vacant for 4 years;
- The development would provide employment opportunities in the town and was sustainably located near to the town centre;
- The area was of mixed character and the development was in keeping with this;
- The provision of offices accommodation satisfied the core strategy and would provide jobs. The development would make a positive contribution to West Berkshire;
- The developer acknowledged that the site was designated for employment accommodation however, West Berkshire Council's own research had identified that there was enough commercial space in district in 2011;
- The application would cause no harm on the Council's Employment Strategy;
- The development would drive economic growth, supply homes and businesses and fulfilled all 3 aspects for sustainable development. It would also improve the visual aspect of the area.

Councillor Hunneman queried why the developer had not chosen to propose 100% housing provision for the site. It was confirmed that a previous application, which incorporated a larger proportion of housing was refused at Committee. The application had been designed to be more in keeping with CS9. Derek Carnegie confirmed with CS9 in mind an application for 100% housing would have been difficult to support.

Councillor Cole reiterated that she would have liked to have been reminded of the previous plans. When considering the previous application she had raised concerns about properties in the bottom right hand corner of the plans. These properties were very shaded and Councillor Cole questioned if steps had been taken to avoid this happening within the new application. Mr Headland confirmed that the previous gardens had faced east. Within the proposed application properties had been orientated to the south to avoid this issue. Steps had also been taken to mitigate overlooking from the Kings Road site. Impact upon existing properties was minimal. Mr Kirk confirmed that the buildings within the new application were no more than 2.5 storeys, so the ridge heights were lower than in the previous application.

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Councillor Beck asked whether consideration had been given to electrical charging points. Mr Headland confirmed that any business which moved into one of the office blocks would have to adhere to the BREEAM Assessment. Different businesses would have different requirements. Regarding the residential area, parking spaces were close to the accommodation, which would lend itself to electrical charging points being implemented in the future. It would however, be difficult to protect the points to ensure they were not used when residents were away from their properties. It was confirmed that there would be a travel plan put in place for the site.

Councillor David Allen queried how the build of the office and residential units would be timed. Mr Kirk responded that the office space would be constructed first to prevent homeowners having to pass through an unfinished building site.

Councillor Bryant noted that Swift boxes would be placed amongst the development if it was approved and queried why in particular Swifts were chosen. It was confirmed that the development has been deemed a suitable habitat for Swifts during the eco walkover.

Councillor Hunneman queried how many car parking spaces there would be for the office blocks. It was confirmed that there would be 1 space per 25 metres. It was reiterated that there would be a travel plan in place to mitigate car usage.

Councillor Roger Hunneman as Ward Member raised the following points:

- He would have rather seen a proposal for 100% housing on the site however, understood that this compromised the Core Strategy.
- The application seemed a reasonable compromise.
- He was satisfied regarding the internal size of the houses and the site layout as a whole.
- He hoped that the travel plan would reduce any impact of the site on the surrounding area. Travis Perkins had only moved a small distance away so therefore the traffic generated by the company could not be discarded.

Councillor Hunneman proposed that Members support Officer recommendation to approve planning permission. Councillor Beck supported his proposal.

Councillor Allen as Ward Member stated that he had been one of the Town Councillors who strongly objected to the office element of the development and reiterated that he would rather see 100% housing on the site. Councillor Allen highlighted that to the east of the site there were employment facilities that had been vacant for some years including Plenty Business Park, Kingfisher Court, the old Stryker site and units at Overbridge Square.

Councillor Cole supported the proposal as it was clear the developer had made many changes to reduce fear raised about the previous application. A mixed development of accommodation and employment provision was a good compromise with CS9 in mind. The development had the potential to provide 125 jobs. Councillor Bryant highlighted that with new housing being built in the area, jobs would need to be provided.

**RESOLVED** that the application be referred to the District Planning Committee with a favourable recommendation to **APPROVE** the planning application, subject to the first completion of the required s106 planning obligation.

### Conditions

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



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Reason: To enable the Local Planning Authority to review the desirability of the development against the advice of the Development Management Procedure Order 2010.

2. Samples of the materials to be used in the proposed development shall be submitted on the application site, as noted on the materials schedule and plan received on the 25<sup>th</sup> June 2013, by the Planning Authority. No development may commence until the materials as submitted are approved in writing by the Planning Authority.

Reason: In the interests of visual amenity in accordance with Policy HSG1 of the West Berkshire District Local Plan 1991 – 2006 Saved Policies 2007.

3. Irrespective of the provisions of the current Town and Country Planning (General Permitted Development) Order 1995 (or any subsequent revision), no additions or extensions to the dwellings shall be built or ancillary buildings or structures erected within the curtilages, unless permission in writing has been granted by the Local Planning Authority on an application made for the purpose. In addition, no change of use of the office units to a residential use shall be allowed without the express permission of the Council, following an application made for that purpose.

Reason: To prevent the over-development of the site and to safeguard the amenities of neighbouring properties in accordance with Policy HSG1 of the West Berkshire District Local Plan 1991 – 2006 Saved Policies 2007. To accord with policy CS9 in the West Berkshire Core Strategy 2006 to 2026.

4. No development shall commence until details of floor levels in relation to existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.

Reason: To ensure a satisfactory relationship between the proposed buildings and the adjacent land in accordance with Policy HSG1 of the West Berkshire District Local Plan 1991 – 2006 Saved Policies 2007.

5. The hours of work for all contractors (and sub-contractors) for the duration of the site development shall, unless otherwise agreed in writing by the Local Planning Authority, be limited to between the hours of 7.30 am to 6.00 pm on Mondays to Fridays, 7.30 am to 1.00 pm on Saturdays, and NO work shall be carried out on Sundays or Bank Holidays.

Reason: In order to protect the amenities of surrounding residents in accordance with policy HSG1 of the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007.

6. The development must be carried out in strict accord with the submitted plans as identified in the table below.

Plan number                      Name                                      Date received.

	Location Plan	10/04/2013
S2341/200	Level Survey	10/04/2013
T322-I-5	Plans & Elevations 1 of 2	10/04/2013
T322-I-5	Plans & Elevations 2 of 2	10/04/2013
H3642/OBB/01 Rev A	Block B B1 Office Floor Plans	26/04/2013
H/3642/OBA/02 Rev A	Block A B1 Office Floor Plans	26/04/2013
H3642/PL/02 Rev M	Planning Layout	24/06/2013
H3642/ML/01 Rev B	Materials Layout	24/06/2013

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BLC120170-1 Rev B	Soft Landscape	24/06/2013
BLC120170-2 Rev B	Soft Landscape	24/06/2013
BLC120170-3	Formal Square	24/06/2013
H3642/AHP/01 Rev A	Affordable Housing Plan	24/06/2013
CS063176/T/010 Rev -	Swept Path Analysis of Proposed Parking Spaces Sheet 1 of 4	24/06/2013
CS063176/T/011 Rev -	Swept Path Analysis of Proposed Parking Spaces Sheet 2 of 4	24/06/2013
CS063176/T/012 Rev -	Swept Path Analysis of Proposed Parking Spaces Sheet 3 of 4	24/06/2013
CS063176/T/013 Rev -	Swept Path Analysis of Proposed Parking Spaces Sheet 4 of 4	24/06/2013
H3642/SS/01 Rev A	Street Scenes & Site Sections	24/06/2013
H3642/BP/01 Rev -	T323 Block Plans & Elevations	24/06/2013
H3642/XYZ/02 Rev A	XYZ A Flat Block Plans & Elevations Plots 1-9	24/06/2013
T322-E-5	Plans and Elevations 1 of 2	24/06/2013
T322-E-5	Plans and Elevations 2 of 2	24/06/2013
T322-E-5 (Plot 37 only)	Plans and Elevations 1 of 2	24/06/2013
T322-E-5 (Plot 37 only)	Plans and Elevations 1 of 2	24/06/2013
SH27-E-5	Plans and Elevations 1	24/06/2013
H3642/PD/EAD	Flat Block EAD (note includes plots 19-24 and 25-30)	24/06/2013
H3642/CB/01	1.8m Timber Close Board Fence	10/04/2013
H3642/SW/01	1.8m High Brick Wall General Locations	10/04/2013
H3642/HTR2/01	0.9m High Black Hoop Top Railings	10/04/2013
H3642/GG/01	1.8 m High Timber Garden Gate	10/04/2013
H3642/TS/01	Timber Shed Plans & Elevations	10/04/2013
H3642/RBW/01	450mm Raised Brick Walkway	10/04/2013
H3642/TS/01	Cycle Storage Specification	10/04/2013
H3642/BS/01	Bin Storage Plots 1-9, 19-30	24/06/2013
CS 900198-02-21-T-006 Rev A	Levels and Contours	24/06/2013
H3642/PL/03 Rev -	Planning Layout Block Plan	26/07/2013

Reason To ensure clarification in the development as permitted as advised in the Development Management Procedure Order of 2010.

7. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) prepared by Odyssey and dated December 2010 and Addendum dated March 2013 and the following mitigation measures detailed within the FRA:

1. No loss of flood storage.
2. No impedance of flood flows.
3. Flood-proofing measures.

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4. Finished floor levels are set no lower than 300mm above Ordnance Datum (AOD).
5. Assessment of safe access and egress.

### Reason:

1. To reduce the impact of flooding on the proposed development and future occupants.
  2. To reduce the risk of flooding to the proposed development and future
  3. To ensure safe access and egress from and to the site.
  4. In accord with the advice in the NPPF of 2012.
8. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and has obtained written approval from the local planning authority. That remediation strategy shall be implemented as approved.

No occupation shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: to accord with the advice in the NPPF of 2012.

9. Piling or any other foundation designs using penetrative methods shall only be permitted with the express written consent of the Local Planning Authority, which will be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater.

Reason: Piling is not appropriate in areas of contaminated soils as it may create pollution pathways to controlled waters. To accord with the advice in the NPPF of 2012.

10. No development shall commence on site, until the location and details of 10 swift boxes (2 x 5) to be built into the eaves of south facing development has been submitted to the local planning authority has been approved in writing. Such approved boxes will be incorporated and retained thereafter.

Reason: to enhance biodiversity on the site, in accord with policy CS17 in the West Berkshire Core Strategy 2006 to 2026.

11. No development shall commence until a Construction Management Plan has been submitted to the Local Planning Authority, and approved in writing. The plan shall detail items such as phasing of construction, construction traffic plans (routes, number of movements, visitor and construction parking, wheel washing, timings of large scale vehicle movements), types of piling rig and earth moving machinery to be implemented and measures proposed to mitigate the impact of construction operations. In addition the plan shall make note of any temporary lighting that will be

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used during the construction phase of the development. The plan shall be implemented in full and retained until the development has been constructed. Any deviation from this Construction Management Plan shall be first agreed in writing with the Local Planning Authority.

Reason: To ensure disruption is minimized during construction in accordance with Policy HSG1 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007.

12. No development shall commence until the applicants have submitted to the Local planning authority a scheme of works, or other steps as may be necessary to minimise the effects of dust during the construction of the development. Development shall not commence until written approval has been given by the Local Planning Authority to any such scheme of works.

Reason: In the interests of amenities of neighbouring occupiers. In accord with policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

13. No development shall commence until details of a scheme of works, for protecting the occupiers of the development from externally generated noise, shall be submitted to and approved in writing by the Local Planning Authority. All works forming part of the scheme shall be completed before any dwelling is first occupied.

Reason: In order to protect the amenities of proposed residents/occupiers of the development in accordance with Policy OVS6 of the West Berkshire District Local Plan 1991 to 2006 Saved Policies 2007.

14. No development shall commence on site until an air quality impact assessment has been carried out to determine the predicted impact on air quality within the vicinity of the site, covering in particular the Bear Lane roundabout and the St John's roundabout (the declared Air Quality Management Area) from the increased road traffic from the site onto the local road network. Any proposed mitigation measures must first be agreed in writing with the Local Planning Authority and then implemented in full on completion of the development hereby approved.

Reason: To mitigate the impact to local residents from dust and reduced air quality as a result of operational traffic. In accord with policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

15. The development shall be implemented in accord with the detailed scheme of landscaping for the site as received by the Local Planning Authority, on the 25<sup>th</sup> June 2013. The scheme as approved shall ensure that:
  - a) Completion of the approved landscape scheme within the first planting season following completion of development.
  - b) Any trees shrubs or plants that die or become seriously damaged within five years of this development shall be replaced in the following year by plants of the same size and species.

Reason: To ensure the implementation of a satisfactory scheme of landscaping in accordance with the objectives of Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

16. Prior to the occupation of the 17<sup>th</sup> dwelling, office block A shall be structurally completed, [with the exception of internal fit out, fixtures and fittings] . Prior to the occupation of the 37<sup>th</sup> dwelling on the application site, office block B shall be structurally completed [with the exception of internal fit out, fixtures and fittings].

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Reason: the application site lies on a protected employment area as designated under policy CS9 in the West Berkshire Core Strategy 2006 to 2026, and it is essential that the office space is completed as part of the mix of uses on the site.

17. The detailed layout of the site shall comply with the Local Planning Authority's standards in respect of road and footpath design and vehicle parking and turning provision. This condition shall apply notwithstanding any indications to these matters which have been given in the current application.

Reason: In the interest of road safety and flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

18. The residential or office use shall not commence until the visibility splay at the site access onto Mill Lane has been provided in accordance with drawing number H3642/PL/02 M received on 25/06/2013. The land within this visibility splay shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres above the carriageway level.

Reason: In the interests of road safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

19. No dwelling or office building shall be occupied until the associated vehicle parking and/or turning space have been surfaced, marked out and provided in accordance with the approved plan. The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

20. No dwelling or office building shall be occupied until the associated cycle parking and storage space has been provided in accordance with the approved details, as submitted on the amended plans received on the 25<sup>th</sup> June 2013 by the Planning Authority, and retained for this purpose at all times.

Reason: To ensure that there is adequate and safe cycle storage space within the site. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

21. The parking space for each individual dwelling on site, and the parking spaces as approved on the associated office layout, shall be retained for vehicle parking only, in regard to its associated use.

Reason: To ensure that the parking spaces are kept available for vehicle parking in the interest of road safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

22. No development shall commence on site until details of the provision for the storage of refuse for the residential and office uses have been submitted to and approved in writing by the Local Planning Authority. Thereafter refuse shall be stored

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in accordance with these approved details.

Reason: In the interests of amenity. This condition is imposed in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

24. The dwellings shall achieve Level 4 of the Code for Sustainable Homes (or any such equivalent national measure of sustainability for house design which replaces that scheme). No dwelling shall be occupied until a final Code Certificate relevant to it, certifying that Code Level 4 of the code for Sustainable Homes (or any such equivalent national measure of sustainability for house design which replaces that scheme) has been achieved, has been issued and a copy has been provided to the Local Planning Authority

Reason: To ensure the development contributes to sustainable construction. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS15 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).

24. The new office buildings shall achieve Excellent under BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme). No building shall be occupied until a final Certificate has been issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating of Excellent has been achieved for the development, has been issued and a copy has been provided to the Local Planning Authority.

Reason: To ensure the development contributes to sustainable construction. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS15 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).

25. Prior to occupation of the development hereby approved, the owner / occupier shall develop and receive approval (in writing from the Local Planning Authority) of an appropriate travel plan for the site and its associated activities. The owner / occupier shall implement the approved travel plan from first operation / occupation of the development and take reasonably practicable steps to achieve and maintain the agreed targets within the timescales set out in the plan.

Reason: ensure the development reduces reliance on private motor vehicles in accordance with the National Planning Policy Framework (March 2012) and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

### 24. Appeal Decisions relating to Western Area Planning Committee

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

*(The meeting commenced 6.30pm and closed at 7.35pm)*

**CHAIRMAN** .....

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

# 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, 2 OCTOBER 2013

**Councillors Present:** David Allen, Howard Bairstow (Substitute) (In place of Anthony Stansfeld), Jeff Beck, Paul Bryant (Chairman), George Chandler, Hilary Cole, Paul Hewer, Roger Hunneman, Garth Simpson and Ieuan Tuck

**Also Present:** Emmanuel Alozie (Solicitor), Derek Carnegie and Elaine Walker (Principal Policy Officer)

**Apologies for inability to attend the meeting:** Councillor Anthony Stansfeld, Councillor Julian Swift-Hook and Councillor Virginia von Celsing

#### PART I

#### 25. Minutes

Councillor Allen stated that comments he had made at the previous meeting had not been included in the minutes. The Chairman advised him that the minutes were not a verbatim record of the meeting, however Councillor Allen requested that the minutes be amended to reflect his contribution to the meeting. The Chairman agreed to defer approval of the minutes until the following meeting to allow Councillor Allen's request to be considered.

Notwithstanding this request, the following amendments were agreed:

Page 2, para 5: amend 'indifferent' to 'similar';

Page 4, para 3: amend '25 metres' to '25 square metres'.

#### 26. Declarations of Interest

Councillors David Allen, Jeff Beck and Howard Bairstow declared an interest in Agenda Item 4(2), but reported that, 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 Bairstow advised that he had also been lobbied on Agenda Item 4(2) by a neighbouring resident.

#### 27. Schedule of Planning Applications

##### 27(1) Application No. and Parish:13/01676/FUL - Warren Farm, Sheepdrove, Lambourn

The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 13/01676/FUL - Warren Farm, Sheepdrove, Lambourn in respect of the erection of one 5kW Evance R9000 turbine on a 15m tower.

In accordance with the Council's Constitution, Ms Corney, Parish Council representative, John Francome (The Friends of the Lambourn Downs), objector, Matthew Hooks, Supporter, and Luke Jeffreys, agent, addressed the Committee on this application.

Ms Corney in addressing the Committee raised the following points:

## **WESTERN AREA PLANNING COMMITTEE - 2 OCTOBER 2013 - MINUTES**

- The ethos of the Parish Council was to encourage sustainable, eco-friendly projects that would improve the area for future generations;
- In comparison to previous applications, Ms Corney believed that this proposal would have no great impact on the landscape;
- The Parish Council supported the application.

Councillor Roger Hunneman asked whether the Parish Council would welcome further, similar applications in the area. Ms Corney replied that all applications would be considered on individual merit and that as long as the proposal would not caused detriment to the area, they would be well received.

Councillor Hilary Cole remarked that although in favour of eco-energy schemes, she did not feel that wind turbines were an efficient source of energy and asked how Ms Corney could support this scheme. Ms Corney responded that the technology used for wind turbines was still in development and that over time it would improve and become more efficient, but this could not happen without investment and support now.

Mr Francome in addressing the Committee raised the following points:

- The proposed site of the turbine was in keeping with an Area of Outstanding Natural Beauty (AONB);
- Mr Francome did not oppose wind turbines, but questioned whether, in the future, the siting of this turbine would be considered a mistake;
- Mr Francome acknowledged that he lived in the only surrounding property that overlooked the proposed site.

The Chairman asked if Mr Francome's views represented those of other members of the Friends of the Lambourn Downs. Mr Francome confirmed that his views were shared.

Mr Hooks in addressing the Committee raised the following points:

- Mr Hooks informed the Committee that he rented a property on Sheep Drove Farm, but stressed that as this was a business transaction with the owners he had no vested interest in supporting the application;
- Central Government were promoting the use of green energy, and this site provided an ideal location for the siting of a wind turbine;
- The location was not significantly overlooked by property or footpaths;
- The noise impact of the turbine had been assessed as minimal;
- The land proposed to site the turbine had been shaped by man over thousands of years, and this proposal would be a continuation of the shaping of the landscape;
- Mr Hooks had no desire to see the landscape destroyed, and the use of green energy would help to protect it by reducing the need for fossil fuels.

The Chairman asked how many wind turbines would be acceptable to Mr Hooks. Mr Hooks responded that all applications would be considered on a case by case basis, and the Council would decide how many could be sustained. Mr Hooks did not consider that the proposed site would have a high impact visually, and noted that there were other vertical structures in the vicinity. Mr Hooks explained that he no longer noticed the current wind turbine due to the build materials used, and expected that the proposed turbine would be similar. Mr Hooks commented that the location would not be suitable for a wind farm, but for small scale energy production and usage, he considered it appropriate.



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Councillor Bairstow commented that as fuel prices rose, it would be inevitable that more wind turbines would appear. Mr Hooks agreed that it was likely that this would occur. The public did not wish to see some forms of energy used – such as nuclear energy – but as there was also no desire to reduce energy usage, other methods of energy production would increasingly need to be employed.

Mr Jeffreys in addressing the Committee raised the following points:

- Sheepdrove Farm requested that the second wind turbine be small in size;
- There was limited scope to locate further turbines due to the need to be close to a meter. Mr Jeffreys believed this to be the only possible location for a turbine in the vicinity;
- Sheepdrove Farm were motivated to put this application forward in order to reduce their impact on the environment;
- The structure would be temporary and would be removed after 25 years.

Councillor Cole asked whether the structure would be replaced by something else after the 25 year period. Mr Jeffreys responded that he could not foresee what might be decided at that time.

Councillor Cole requested confirmation that the proposed turbine would be similar to the one already in place, and asked how much energy the current turbine produced. Mr Jeffreys replied that it produced approximately 10,000 kWh per year which was sufficient to power three houses. However the power supply could vary on a daily basis dependent on the weather conditions. Councillor Cole stated her understanding that turbines were inefficient, and required more energy to produce than they produced themselves, and questioned whether they were the best source of energy. Mr Jefferys responded that he was unaware of the energy required to produce a turbine, but that they required no energy to start up, and were on track to produce 11,000 kWh per year.

Councillor Garth Simpson asked about the nature of the power produced. Mr Jeffreys replied that the energy was converted to AC power, and was to be used to power a grain dryer on the farm. Surplus power would be provided to the National Grid. Councillor Simpson commented that the seasonal nature of grain drying would imply that the majority of the power would be given to the National Grid.

Councillor Hunneman asked why the application was not for a bigger and more efficient turbine which would provide a better use of capital but would not have a significantly greater impact on the AONB. Mr Jeffreys responded that he did not feel there was a great impact on the AONB but acknowledged that others did.

Councillor Hunneman further asked why the turbine had been moved away from the farm buildings. Mr Jeffreys replied that the Ecology Officer had been concerned that siting the turbine close to the farm buildings would have a negative impact on the habitat of bats. The Chairman clarified that the previous application had been refused due to the turbine being of a greater size and would therefore have had a greater impact on the AONB.

Councillor George Chandler asked whether Mr Jeffreys had supplied the existing turbine and whether the new turbine was able to benefit from improved efficiency. Mr Jeffreys confirmed that his company had provided the first turbine, and that there had been little change to the design of turbines to improve their efficiency although they were now slightly more efficient at lower wind speeds. Mr Jeffreys advised the Committee that all turbines were independently accredited to provide assurance that the stated power supply level could be met.

Councillor Allen asked from how far away the turbine could be heard. Mr Jefferys replied that a person would need to be within approximately 60 metres of the turbine to hear it.

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Derek Carnegie advised that members of the Committee who had attended the site visit would have been approximately 100 metres away from the existing turbine.

Councillor Ieuan Tuck noted the earlier mention of bats and asked whether there were bats in the area. Mr Jeffreys confirmed that there were, and advised the Committee that bats tended to remain close to hedge lines which was why there had been a requirement to place the proposed turbine 50 metres away from the hedges.

Councillor Paul Hewer asked how many solar panels would be required to produce the equivalent amount of energy. Mr Jeffreys believed that approximately 60 solar panels would be required, and noted that the footprint of the turbine was one square metre.

The Chairman sought advice as to the weight that Members should attribute to the efficiency of the turbine and the visual impact in the landscape. Derek Carnegie advised that the efficiency of the turbine was not a planning matter, but was for the consideration of the applicant. The Committee should weight their judgement towards the visual impact on the area.

Councillor Beck commented that having visited the site, he could see no significant negative effect on the AONB and proposed that the Committee accept the recommendation made by Officers for planning permission to be approved. Councillor Beck continued by requesting that comments made by the Tree Officer be included as an informative. This was agreed in order to clarify the Tree Officers position and ensure protection for tree roots during the development.

Councillor Hunneman commented that when on site, it had been difficult to see the existing turbine due to its construction, and therefore could see no harm in allowing a second turbine. Councillor Hunneman considered that turbines in this location would only be harmful if they were erected in greater numbers. Councillor Hunneman seconded the proposal.

The Committee noted the inclusion in the conditions of the need to consider the cumulative effect of further applications.

Councillor Cole reiterated that she did not support wind turbines, but acknowledged that the decision was to be made on the basis of visual impact not efficiency. Councillor Cole did not support the erection of a wind turbine in this location citing the impact on the landscape and on migrating birds, and shared concerns that the condition to consider the cumulative impact of further development might not be adhered to in the future. Councillor Cole stated that the position of Central Government was not to use wind turbines as a major source of energy on land. Councillor Cole noted her disappointment that the agent had not been able to supply accurate data in response to questioning. Councillor Cole did not support the application.

Councillor Bairstow asked whether the colour of the turbine should be a consideration, and suggested that a white structure would be more visible to birds, but a green or brown structure would have less visual impact on the environment. Derek Carnegie clarified that this turbine would be the same colour as the existing one which blended with the landscape.

Councillor Simpson expressed his disappointment with the lack of data that was able to be provided during questioning. Councillor Simpson did not support the application stating that the seasonal nature of drying grain meant that an estimated 90% of the power produced would be given to the National Grid.

Councillor Chandler expressed his view that the proposal would provide an insignificant addition to the landscape, noting that the two turbines would not be visible in the same view. Councillor Chandler supported the ethos of green energy.

At the vote the proposal was carried.

**RESOLVED** that the Head of Planning and Countryside be authorised to grant planning permission subject to the following conditions:

**Conditions**

**1 Full planning permission time limit**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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); to enable the Local Planning Authority to review the desirability of the development should it not be started within a reasonable time.

**2 Materials**

No development shall take place until a schedule of the colours to be used in all aspects of the development and hard surfaced areas hereby permitted have been approved in writing by the Local Planning Authority. Any accompanying samples shall be made available to be viewed at the site or by arrangement with the Planning Officer. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure that the external materials are visually attractive and respond to local character. This condition is imposed in accordance with guidance set out in the National Planning Policy Framework March 2012, Policies ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design (June 2006).

**3 Landscaping**

No development shall take place until a detailed scheme of landscaping around the site has been submitted to and approved in writing by the Local Planning Authority. The details shall include schedules of plants noting species, plant sizes and proposed numbers/densities, an implementation programme and details of written specifications including cultivation and other operations involving tree, shrub and grass establishment. The scheme shall ensure:

a) Completion of the approved landscaping scheme within the first planting season following completion of development/first occupation of the dwelling(s)/first use of the development or in accordance with a programme submitted to and approved in writing by the Local Planning Authority.

b) Any trees, shrubs or plants that die or become seriously damaged within five years of the completion of this development/of the completion of the approved landscaping scheme shall be replaced in the next planting season by plants of the same size and species.

Thereafter the approved scheme shall be implemented in full.

Reason: To ensure the implementation of a satisfactory scheme of landscaping, and to limit the visual impact of the development. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies ADPP5, CS12, CS14 and CS19 of

the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

**4 Removal if unused**

Should the wind turbine hereby approved be left unused for a continuous period of 12 months, the wind turbine shall be removed from the site and the land shall be returned to its original state in so far as it is reasonable and practicable.

Reason: The wind turbine has been approved with consideration for the benefits of generating renewable energy. Should the turbine not be maintained and utilised and the production of a renewable energy no longer exists, it would result in an unnecessary feature within the landscape.

This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies ADPP5, CS12, CS14 and CS19 of the West Berkshire Core Strategy (2006-2026).

**INFORMATIVE**

**Tree protection precautions informative note:**

1. To ensure that any trees to be retained are protected from damage, ensure that all works occur in a direction away from the trees.
2. In addition that no materials are stored within close proximity i.e. underneath the canopy of trees to be retained.
3. Ensure that all mixing of materials that could be harmful to tree roots is done well away from trees (out side the RPA – 12x dia of trunk at 1.5m above ground level) and down hill of the trees if on a slope, to avoid contamination of the soil.
4. To ensure the above, erect chestnut pale fencing on a scaffold framework at least out to the canopy extent of the trees to preserve rooting areas from compaction, chemicals or other unnatural substances washing into the soil.
5. Where Tree Protective Fencing is not achievable Ground Protection in the form of scaffold boards / ply wood sheets should be laid over 7.5cm of wood chip or sharp sand to act a weight bearing surface to prevent compaction of the root and surrounding soil.

**27(2) Application No. & Parish: 13/01710/HOUSE - 27 Glendale Avenue, Newbury**

*(Councillors Allen, Beck and Bairstow declared a personal interest in Agenda item 4(2) by virtue of the fact that they were members of Newbury Town Council and had been present at the Planning and Highways meeting where the item had been discussed, however they would consider the application afresh. As their interest was personal and not prejudicial or a disclosable pecuniary interest they determined to take part in the debate and vote on the matter).*

The Committee considered a report (Agenda Item 4(2)) concerning Planning Application 13/01710/HOUSE - 27 Glendale Avenue, Newbury in respect of a first floor extension to the side and rear of a detached property.

In accordance with the Council's Constitution, Marilyn Robson, objector, addressed the Committee on this application.

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Ms Robson, in addressing the Committee raised the following points:

- Ms Robson was a direct neighbour to the applicant;
- This was the third application submitted by the applicant;
- The report stated that there was a mix of property types in the area, however this was not correct at this location where all the properties were detached. This was a desirable feature and was part of the attraction of the area;
- The proposed extension would appear to fill the gap between Ms Robson's house and the applicant's, giving the impression of a row of terraced houses;
- The proposed extension would be overbearing. It would tower over Ms Robson's garden and new windows would overlook her property;
- Ms Robson was concerned about the build process as the applicant had requested access to her garden and requested that scaffolding be attached to her house during the build;
- Ms Robson urged the Committee to refuse this application.

The Chairman advised Ms Robson that she was within her rights to refuse access to her property, but that any issues arising from this would be a civil matter, not a planning consideration.

Councillor Cole commented that the only a bedroom window would overlook Ms Robson's property, considering this to be minimal disruption when compared to a living room. Ms Robson replied that the rooms would be in use each day and would therefore be felt as an imposition on her garden.

Councillor Hunneman asked which room was behind the window currently overlooking Ms Robson's garden. Ms Robson believed it to be the landing. Councillor Hunneman commented that this window would no longer exist, but be replaced by a bedroom window at an oblique angle to Ms Robson's garden. Ms Robson stressed that this window would be closer.

Councillor Bairstow asked how wide the extension would be. Derek Carnegie confirmed that the extension would extend directly upwards from the existing ground floor walls. Ms Robson explained that there was almost no gap between the applicant's house and the boundary fence to her garden.

The Chairman asked if there was any significant difference between the proposed extension, and that at Number 29. Ms Robson replied that it was very similar but one was set back slightly at the front.

Councillor Adrian Edwards, speaking as Ward Member, raised the following points:

- Councillor Edwards recognised that many people had a need to extend their property, and was supportive of the principal, as long as it did not cause an adverse effect for neighbouring properties;
- Although there was no representative from the Newbury Town Council present to speak, Councillor Edwards alerted the Committee to the unanimous decision by Newbury Town Council to object to the application on the grounds of overlooking, overbearing construction, and loss of light and privacy to neighbours;
- Concerns had been raised by other neighbours regarding the imposing structure, blocked sunlight, and a view that this was an overdevelopment of the site;
- With many households using bedrooms as studies, there was a real possibility that the new window would impinge on Ms Robson's privacy;

## WESTERN AREA PLANNING COMMITTEE - 2 OCTOBER 2013 - MINUTES

- Councillor Edwards requested that the Committee refuse the application.

Councillor Cole asked whether the extension of Number 29 had also been called to Committee, noting that it was very similar in scale and nature to that in question. Derek Carnegie advised that it had not been subject to a decision by Committee. Councillor Cole therefore asked Councillor Edwards his opinion as to the reason for the different levels of objection or support for the two applications. Councillor Edwards responded that he was not able to comment as he had not been around when the extension at Number 29 had been built.

Councillor Chandler asked whether the three houses had originally been built identically. The Chairman, referring to photographs of the houses, noted that they were very similar but not identical prior to the additional extensions.

Councillor Bairstow, as Ward Member, raised the following points:

- The original application, which had proposed an extension which would have extended to the rear of the property, had been viewed negatively. The change to the design had tempered this view;
- The gaps between the houses were not clear, but it appeared that the gap between the applicant and Ms Robson was smaller than that between the applicant and Number 29;
- Residents found it more affordable to extend their existing house rather than move to a larger house elsewhere;
- There was a difference in loss of light between the houses in question, and those opposite due to the aspect of the houses;
- Councillor Bairstow did not support the application, but believed that if the decision were appealed, permission would be granted.

Derek Carnegie offered the view that should this application be refused and subsequently appealed, it would be difficult to defend given surrounding activity and precedent in the area. The application under consideration was felt to be a reasonable compromise following the previous application.

Councillor Cole expressed her sympathy with Ms Robson but noted that the precedent set by the extension at Number 29 had great bearing on the decision to be made by the Committee. Councillor Cole viewed positively the efforts made by the applicant to accommodate the requests of Planning Officers and Ms Robson. Additionally, Councillor Cole considered that the loss of light to other neighbours appeared in great part to be due to a high hedge. Councillor Cole proposed that the recommendation made by Officers to grant planning permission be accepted.

Councillor Allen seconded the proposal.

Councillor Beck requested that if approved, further conditions be imposed around hours of work, as would normally be expected.

At the vote the proposal was carried subject to the additional conditions requested by Councillor Beck.

**RESOLVED that** the Head of Planning and Countryside be authorised to grant planning permission subject to the following conditions:

### Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

## **WESTERN AREA PLANNING COMMITTEE - 2 OCTOBER 2013 - MINUTES**

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. The development hereby permitted shall be carried out in accordance with the approved drawing titles Elevations and First Floor Plan received on 02.09.2013.

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

3. The materials to be used in this development shall be as specified on the plans or the application forms.

Reason: To ensure that the external materials are visually attractive and respond to local character. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS14, Area Delivery Plan Policies 1 and 2 of the West Berkshire Core Strategy (2006-2026), and the guidance contained in West Berkshire Council Supplementary Planning Document Quality Design (June 2006) and Supplementary Planning Guidance 04/2 House Extensions (July 2004).

4. No demolition or construction works shall take place outside the following hours:

7:30am to 6:00pm Mondays to Fridays;

8:30am to 1:00pm Saturdays;

nor at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS14 of the West Berkshire Core Strategy (2006-2026).

### **28. 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 8.00 pm)*

**CHAIRMAN** .....

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

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# Agenda Item 4.(1)

Item No.	Application No. and Parish	8/13 Week Date	Proposal, Location and Applicant
(1)	13/01795/FULD  Newbury Town Council	15 <sup>th</sup> October 2013	Proposed sub-division of 21 Western End, Newbury from a 3 bedroom house to two 1 bedroom apartments. Minor alterations to 21A and 21B. Erection of two 1 bedroom apartments on land at rear of 21, 21A and 21B Western End and to be provided with private amenity and parking.  21, 21A and 21B and Land at Western End, Newbury.  Mr A Butler

To view the plans and drawings relating to this application click the following link:  
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=13/01795/FULD>

**Recommendation Summary:** To **DELEGATE** to the Head of Planning and Countryside to **REFUSE** planning permission for the following reasons:

1. The proposed works would result in an overdevelopment of the site and cramped form of development which would be out of character and scale with existing residential development in the locality. The location of the site, on a corner plot, with development within 1 metre of the existing pavement would give rise to a visually dominant form of development which would demonstrably harm the character of the area and its environmental cohesiveness. As such the proposal conflicts with guidance contained within the National Planning Policy Framework 2012, Policies ADPP1 and CS14 of the West Berkshire Core Strategy 2006-2026, Policy HSG1 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007 and Supplementary Planning Document, West Berkshire: Quality Design.
2. The proposed development would by virtue of form, siting, scale and associated parking requirements result in an increased intensity of use which does not reflect nor enhance the established environmental and residential character of the area. Furthermore, the proposed shared amenity space is not considered acceptable within this out of town centre location. This intensity of development would detract from existing and future residential amenity which should be reasonably enjoyed. As such the proposal is contrary to guidance contained within the National Planning Policy Framework 2012, Policies ADPP1 and CS14 of the West Berkshire Core Strategy 2006-2026, Policy HSG1 of the West Berkshire District Local Plan 2006-2026 Saved Policies 2007 and Supplementary Planning Document, West Berkshire: Quality Design.
3. The application fails to secure an appropriate scheme of works or off site mitigation measures to accommodate the impact of the development on local infrastructure, services or amenities, or provide an appropriate mitigation measure such as a planning obligation. The proposal is therefore contrary to Government advice contained within the National Planning Policy Framework 2012, Policy CS5 of the West Berkshire Core Strategy 2006-2026 and West Berkshire Council's adopted Supplementary Planning

**Ward Member(s):** Cllr. G. Mason  
Cllr. Dr. A. J. M Vickers

**Reason for Committee determination:** Called in by Cllr. Dr Vickers as the applicant has made improvements since the earlier refusal (upheld on appeal) and there are no objections from neighbours. The development would provide some much needed affordable privately rented accommodation. Similar schemes not much closer to town centre have even less amenity space.

**Committee Site Visit:** 7<sup>th</sup> November 2013

**Contact Officer Details**

<b>Name:</b>	Ellie Neal
<b>Job Title:</b>	Planning Officer
<b>Tel No:</b>	(01635) 519111
<b>Email:</b>	eneal@westberks.gov.uk

## 1. PLANNING HISTORY

05/02054/FULD	Extension to provide two flats.	Approved 15/11/05
12/01259/FULD	Proposed sub-division of 21 Western End from a 3 bedroom house to two 1 bedroom apartments, minor alterations to 21A and 21B and new two 1 bedroom apartments attached to 21A and 21B Western End and provided with private amenity and parking.	Refused 20/07/12

Application ref. 12/01259/FULD was appealed and the appeal dismissed on 31/5/13.

## 2. PUBLICITY

Site Notice Expired:	18 <sup>th</sup> September 2013
Neighbour Notification Expired:	17 <sup>th</sup> September 2013

## 3. CONSULTATIONS AND REPRESENTATIONS

### 3.1 Consultations

**Town Council:** Objection/comment: vast overdevelopment; should be kept as amenity space; out of character; would create a precedent; insufficient parking; insufficient amenity space; garden grabbing.  
If the development were to proceed a £143 s106 contribution is requested towards improvements to the nearby open space at St George's Avenue.

**Highways:** This application follows recently refused application 12/01259/FULD where highway matters were agreed in principle.

**Car parking:** Six car parking spaces are proposed which equates to one space per dwelling. Given the size of these flats and the relatively sustainable location, this is acceptable. Although the application form states no new access to the highway will be created it looks as though a new drop kerb crossover is required to extend across the frontage of the site.

**Cycle storage:** The type of cycle stand proposed was agreed with the Council's Transport Policy Team under planning application 12/01259/FULD. This aspect is therefore acceptable.

**SSE:** Copies of the Record Plans were sent. The plans show the positions and normal depths for the buried cables when they were installed. It must be stressed, however, that alterations to road alignments, surface levels and buildings may have been made subsequent to the records being taken. If the developer finds plant or cables that are not marked or are incorrectly marked, then the developer is required to contact SSE as soon as possible to give SSE the opportunity to amend records.

**SuDS:** Response not yet received.

**Waste:** This application raises no concerns with regard to refuse and recycling collection and storage.

**Newbury Society:** The principle of this application for two new flats is the same as that of the previous application 12/01259, which was rejected both by you and on appeal. Our objections are therefore identical. The area which is proposed for the development is at present fenced off and contains various debris. We believe that it was originally intended for either parking or amenity space for the adjoining apartments. Behind it is a triangle of 75 sqm amenity space which is all that is available for the four apartments 21 A/B and 21 E/F. If two further apartments are built, then the same 75 sqm amenity space will have to serve six apartments. We believe that this would be insufficient, and contrary to the Council's Quality Design SPD2 (1.16). In our opinion, the space intended by this application should be reassigned for its original purpose, in order to improve the quality of life of the present residents.

**Access Panel:** Response not yet received.

**Thames Water:** Thames Water would advise that with regard to sewerage infrastructure and water infrastructure, we would not have any objection.

### 3.2 Developer Contributions

<b>Transport:</b>	£1,100
<b>Education:</b>	£0
<b>Open Space:</b>	£583
<b>Libraries:</b>	£321
<b>Healthcare:</b>	£0
<b>Waste:</b>	£224.80
<b>Adult Social Care:</b>	£1419

### 3.3 Representations

Support: One letter.

#### Summary of comments in support:

- Fully support the plans to build on the land backing onto Green Lane.
- The land is currently unused and fenced off – it was previously a public right of way and used for dumping and the land was going to waste.
- The property owner has purchased the land with the intention of building housing.

## 4. PLANNING POLICY

- 4.1 The statutory development plan comprises the West Berkshire Core Strategy 2006-2026 (WBCS) and the saved policies in the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007) (WBDLP).
- 4.2 Other material considerations include government guidance, in particular:
- The National Planning Policy Framework (March 2012) (NPPF)
- 4.3 The following policies from the West Berkshire Core Strategy are relevant to this application:
- Area Delivery Plan Policy 1: Spatial Strategy
  - Area Delivery Plan Policy 2: Newbury
  - CS1: Delivering New Homes and Retaining the Housing Stock
  - CS4: Housing Type and Mix
  - CS5: Infrastructure Requirements and Delivery

- CS13: Transport
- CS14: Design Principles
- CS15: Sustainable Construction and Energy Efficiency

- 4.4 Paragraph 215 of the NPPF advises that, for the 12 months from the day of its publication, due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. Some saved policies from the WBDLP have not been replaced by policies contained within the WBCS and are therefore relevant to this application:
- HSG1: The Identification of Settlements for Planning Purposes
- 4.5 The Supplementary Planning Document, West Berkshire: Quality Design is relevant to this application as is the Newbury Town Design Guide.

## **5. DESCRIPTION OF DEVELOPMENT**

- 5.1 This application seeks full permission for the sub-division of 21 Western End from a three bedroom dwelling to two 1 bedroom apartments. Alterations would also be made to the existing 1 bedroom apartments at nos. 21A and 21B Western End. Further to this, a new two storey structure is proposed on land to the east of 21A and 21B, which would provide two 1 bedroom apartments. The apartments in each of the units would be split horizontally, with each unit being spread over one floor.
- 5.2 Vehicular parking for apartments A, B, D, E and F would be located on the gravelled area to the west of the site and vehicular parking for apartment C would be located between the rear of 21A and B and the new structure, which would contain apartments 21C and D.
- 5.3 Shared outdoor amenity space for apartments C, D, E and F along with cycle storage facilities would be located in the north-eastern corner of the site.
- 5.4 The application site consists of nos. 21, 21A and 21B Western End, as well as land to the rear of these properties and lies within an established residential area in the settlement boundary of Newbury. The surrounding area is characterised by two storey terraced and semi-detached dwellings of similar form and scale to no. 21 Western End, most of which also have off-street parking. There are also some two storey flats nearby with parking to the front.
- 5.5 The application site originally consisted of two separate plots, 21 Western End and an area of public open space. The residential curtilage of no. 21 was originally made up of the dwellinghouse with a garden to the east and a garden area to the south, along with a parking area to the west. Following the approval of application ref. 05/02054/FULD, an extension was added to the southern elevation of no. 21 and this was constructed over the existing southern garden area. This provided two new apartments. The area of public open space was located in the south-eastern corner of the site. This plot has been purchased by the applicant and now forms part of the application site.
- 5.6 Private amenity space is currently provided for the dwelling at no. 21 Western End but it does not appear to be provided for the two adjacent apartments, 21A and 21B. The area which was previously public open space is currently enclosed by a 2 metre high, close board fence.

## **6. APPRAISAL**

The main issues for consideration in the determination of this application are:

- The principle of the development,
- The impact on the character of the area,
- The impact on neighbouring properties and residential amenity,

- The impact on highway safety and parking,
- Code for sustainable homes,
- Developer contributions,
- The presumption in favour of sustainable development.

## **6.1 Principle of the development**

- 6.1.1 The application site is located within the defined settlement boundary of Newbury. In accordance with Core Strategy Area Delivery Plan Policy 1 (ADPP1) and the principle guidance in the NPPF, development will be directed to the most sustainable locations and with preference to brownfield sites. Whilst part of the site may not necessarily be considered brownfield, in accordance with paragraph 215 of the NPPF, decisions are to be made in accordance with relevant policies within the West Berkshire District Local Plan. Policy HSG1 permits residential development on developed and undeveloped land within defined settlement boundaries subject to compliance with certain criteria. Further to this, Policy CS1 of the West Berkshire Core Strategy permits new homes on other suitable land within settlement boundaries.

## **6.2 Character of the area**

- 6.2.1 The application site is currently occupied by a three bedroom dwelling and two 1 bedroom apartments. The proposal is to alter the existing buildings to create two 1 bedroom flats in each and to add a new two storey building in order to create a further two 1 bedroom flats. The site is a corner plot, which is visible from a number of public vantage points and this part of Western End is generally characterised by two storey dwellings or apartment buildings, which are set back from the footway to allow parking or a small garden. The new two storey building being proposed would be sited in a highly prominent location and at its closest point would be only 1 metre from the footway, forward of the adjacent development and with only very limited opportunity for a front garden area. This part of the proposal would therefore result in an obtrusive form of development, which would be out of keeping with the general layout of development in the immediately surrounding area and giving a cramped feel to this part of Western End.
- 6.2.2 It is recognised that there are existing flats near to the application site. However, these benefit from open landscaped areas and parking courts, thus retaining the general established character of the area. In order to accommodate the six 1 bedroom flats proposed, there would be little opportunity for soft landscaping. This would add to the obtrusive and cramped feel that would result from the overdevelopment of this plot.
- 6.2.3 This application follows a previously refused application, 12/01259/FULD, which was also dismissed at appeal. The applicant contends that the new scheme has overcome the reasons for refusal attached to the previous application. Whilst the current proposal is certainly an improvement on the previous proposal, it is not considered that these concerns have been overcome. The new design of the two storey structure would now more closely follow the properties surrounding the application site and would enable a larger gap between the new structure and the existing properties on the site and the ridge and eaves heights would follow nos. 21 and 21a and B, giving a more uniform appearance. However, though this goes some way in improving the scheme, the overriding fact remains that this proposal would result in a cramped form of development, which would not appear wholly in keeping with the character of the area and which dominates the street scene to an unacceptable level.
- 6.2.4 Furthermore, in the Planning Inspector's report for the dismissed appeal of application ref. 12/01259/FULD, he notes that there are a few properties in one of the nearby roads, Braunfels Walk, which are sited fairly close to the footway. However, the Inspector concluded that such dwellings form part of the original layout of the area and do not appear prominent or intrusive within the street scene. Additionally, the Inspector considered several

properties in Parsons Close which directly abut the footway. However, again these form part of the original of the area and it was the Inspector's opinion that these buildings appear rather prominent and obtrusive within the street scene and, as such, was not persuaded that they lend any material weight to the appeal proposal.

- 6.2.5 Policy CS4 of the West Berkshire Core Strategy seeks to ensure that residential development contributes to the delivery of an appropriate mix of dwelling types and sizes to meet the housing needs of all sectors of the community. Furthermore, it states "Development will make efficient use of land with greater intensity of development at places with good public transport accessibility". It is acknowledged that this proposal would provide additional housing and is a sustainable location where higher levels of intensity can be expected. However, it is considered that this level of development would be too much for the site and the need for a mix of housing would not outweigh the harm to the character of the area that would result from this proposal.

### **6.3 Impact on neighbouring properties and residential amenity**

- 6.3.1 One of the core planning principles of the NPPF (paragraph 17) seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is further supported in the Council's SPD on Quality Design 'Part 2 Residential Development' and the Council's SPG on House Extensions.
- 6.3.2 The new building and windows have been positioned in such a way to ensure that there would be no significant adverse impact on any neighbouring properties. In terms of no. 21 Green Lane, which lies to the east, no new windows are proposed to be inserted into the eastern elevation of the new structure thereby ensuring no overlooking or loss of privacy. Whilst the new structure would be constructed close to the eastern boundary of the application site, it would lie adjacent to the backway and the rear garden of the neighbouring property. It is therefore considered that this proposal would result in no undue loss of light and the backway between the properties would ensure that there would not be an overbearing impact.
- 6.3.3 Though a number of new windows would be inserted into the northern elevation of the new structure, the distance between these openings and the rear garden of no. 20 Western End would ensure that this proposal would lead to no significant overlooking of this property.
- 6.3.4 The new structure being proposed would be located in the south-eastern corner of the site, leaving an area of approximately 75 sq. m in the north-eastern corner for shared outdoor amenity space for the new flats. The application plans also show other areas of shared amenity space both to the west of the existing units and to the west of the new structure. However, given that these areas are small and not private, it is not considered that they can meaningfully add to the amenity space being provided. It should be noted that even with these areas included, the shared outdoor amenity space would still fall below the required standards. Though this proposal would result in 6 flats being created within the site, the applicant contends that the existing flats at nos. 21A and 21B have already been granted consent without any provision of outdoor amenity space and therefore, the 75 sq. m of outdoor space being provided in this development would be for the use of the occupants of flats 21C, D, E and F only. The Council's Supplementary Planning Document: Quality Design provides a guideline figure of 25 sq. m for each 1 and 2 bed apartment. The 4 new units proposed would still be under-provided with amenity space and this would be likely to result in poor living conditions for future residents. Whilst it is acknowledged that lower levels of outdoor amenity space may sometimes be acceptable in town centre locations, it is not considered that the application site is sufficiently close to the town centre to warrant such a modest sized space. Further to this, the character of the area is generally one of reasonable sized outdoor amenity space and the lack of shared space being proposed only serves to highlight the cramped form of development being proposed.

- 6.3.5 Whilst it is accepted that the existing apartments at nos. 21A and 21B may not currently benefit from any outdoor amenity space, the fact alone does not automatically suggest that such low levels of outdoor amenity space should be provided for this new development.

#### **6.4 Impact on highway safety and parking**

- 6.4.1 The application has been reviewed by the Council's Highways Officer. It was noted that the application follows recently refused application 12/01259/FULD, where highway matters were agreed in principle.
- 6.4.2 Six vehicular parking spaces are proposed, which equates to one space per dwelling. Given that the apartments would be modest sized, 1 bedroom units in a sustainable location, this level of parking space is acceptable. The type of cycle stand being proposed was agreed with the Council's Transport Policy Team during the previous application at the site and would therefore be acceptable. It is therefore considered that this proposal would lead to no issues of highway safety.

#### **6.5 Code for sustainable homes**

- 6.5.1 Policy CS15 of the West Berkshire Core Strategy requires that all new residential development should be constructed to meet a minimum standard of Code for Sustainable Homes Level 4. Whilst this policy would not apply to the existing flats, or the conversion of no. 21, it will be required for the new structure being proposed. A pre-assessment estimator would normally be required to be submitted during the course of the application to demonstrate that the new structure could achieve the desired code level. No such report was submitted with this application but given the case officer's over-riding concerns with the application, this matter was not pursued further.

#### **6.6 Developer contributions**

- 6.6.1 Contributions have been requested from highways, open space, libraries, adult social care and waste. The contribution requests are considered to be justified in accordance with the impact of development on the surrounding highway network, areas of open space, library provision, adult social care services and waste collection. This is in accordance with the Council's SPD on developer contributions.
- 6.6.2 Given the overriding concerns with the other impacts of the development, the Council's Legal Services have not been instructed to begin drafting a Section 106 legal agreement as this would have proved abortive work for all parties. However, should the application be refused, this must be included as a reason for refusal as the proposal would fall contrary to Policy CS5 of the West Berkshire Core Strategy.

#### **6.7 Presumption in favour of sustainable development**

- 6.7.1 The NPPF has introduced a presumption in favour of sustainable development, which paragraph 197 advises should be applied in assessing and determining development proposals.
- 6.7.2 The NPPF identifies three dimensions to sustainable development: economic, social and environmental. The policies of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.
- 6.7.3 Providing new housing in sustainable locations is a clear social benefit which supports strong, vibrant and healthy communities. The NPPF clearly seeks to significantly boost the supply of housing, and the application site is considered to be a sustainable location for



infill housing development. As such, it is considered that the proposal would have social benefits which weigh in favour of granting planning permission.

- 6.7.4 However, the economic benefits are considered to be limited given the size of the development and the lack of secured contributions and the environmental considerations have been assessed in terms of design, amenity and impact on the character and appearance of the area. This proposal is considered to run contrary to the environmental sustainability objectives and this would weigh heavily in favour of refusing planning permission.
- 6.7.5 Whilst there may be some social benefits as a result of this proposal, they are not considered to outweigh the negative environmental contribution that this development would bring. For these reasons, it is considered that the proposed development would run contrary to the aims of the National Planning Policy Framework.

## **7. CONCLUSION**

- 7.1 Having taken account of all the relevant policy considerations and other material considerations discussed above, this proposal would have an unacceptable impact and refusal is recommended.
- 7.2 Whilst the proposal currently being presented is considered to be an improvement on the previously refused scheme, 12/01259/FULD, the improvements made are not sufficient to overcome the reasons for refusal attached to this previous application. The proposal results in overdevelopment of the site and would lead to a cramped form of development, with insufficient outdoor amenity space being provided for the new units.

## **8. FULL RECOMMENDATION**

To **DELEGATE** to the Head of Planning & Countryside to **REFUSE PLANNING PERMISSION** for the following reasons.

### **8.1 Reasons for refusal**

1. The proposed works would result in an overdevelopment of the site and cramped form of development which would be out of character and scale with existing residential development in the locality. The location of the site, on a corner plot, with development within 1 metre of the existing pavement would give rise to a visually dominant form of development which would demonstrably harm the character of the area and its environmental cohesiveness. As such the proposal conflicts with guidance contained within the National Planning Policy Framework 2012, Policies ADPP1 and CS14 of the West Berkshire Core Strategy 2006 -2026, Policy HSG1 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007 and Supplementary Planning Document, West Berkshire: Quality Design.
2. The proposed development would by virtue of form, siting, scale and associated parking requirements result in an increased intensity of use which does not reflect nor enhance the established environmental and residential character of the area. Furthermore, the proposed shared amenity space is not considered acceptable within this out of town centre location. This intensity of development would detract from existing and future residential amenity which should be reasonably enjoyed. As such the proposal is contrary to guidance contained within the National Planning Policy Framework 2012, Policies ADPP1 and CS14 of the West Berkshire Core Strategy 2006-2026, Policy HSG1 of the West Berkshire District Local Plan 2006-2026 Saved Policies 2007 and Supplementary Planning Document, West Berkshire: Quality Design.

3. The application fails to secure an appropriate scheme of works or off site mitigation measures to accommodate the impact of the development on local infrastructure, services or amenities, or provide an appropriate mitigation measure such as a planning obligation. The proposal is therefore contrary to Government advice contained within the National Planning Policy Framework 2012, Policy CS5 of the West Berkshire Core Strategy 2006-2026 and West Berkshire Council's adopted Supplementary Planning Document: Delivering Investment from Sustainable Development.

### **Informatives**

1. In attempting to determine the application in a way that can foster the delivery of sustainable development, the local planning authority has approached this decision in a positive way having regard to Development Plan policies and available guidance to try to secure high quality appropriate development. In this application the local planning authority has been unable to find an acceptable solution to the problems with the development so that the development can be said to improve the economic, social and environmental conditions of the area.

DC

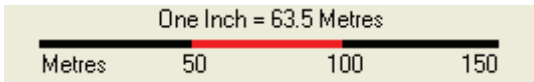


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Organisation	West Berkshire Council
Department	Environment
Comments	
Date	04 November 2013
SLA Number	100015913

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# Agenda Item 5.

## APPEAL DECISIONS WESTERN AREA-COMMITTEE

Parish and Application No Inspectorate's Ref	Location and Appellant	Proposal	Officer Recommendation	Decision
NEWBURY 12/02757  Pins Ref 2190423	The Firs, Tydehams, Newbury Mr A Henry	S73 Removal or variation of Condition 5 - Hard surfaces, Condition 12 - Parking and gates, Condition 13 - Obscure glaze and no openings and Condition 14 - Remove permitted development of approved application 12/01296/FUL- Demolition of existing bungalow - construction of replacement dwelling	Delegated Refusal	Allowed 13.8.13
NEWBURY 12/01319  Pins Ref 2192156	Land adjacent to No. 11 Pond Close, Newbury. Sovereign Housing Assoc	Construction of 3 No 3 bedroom detached houses together with external works.	Delegated Refusal	Dismissed 15.3.13
BRIGHTWALTON 12/01952  Pins Ref 2189420	Flint Cottage Brightwalton Dr K Richards	Relaxation of condition 5 to allow annex to be let	Delegated Refusal	Dismissed 21.8.13
INKPEN 12/03049/ful  Pins Ref 2199951	Greenacres, Lower Green, Inkpen Mr and Mrs J Wyatt	Demolition of existing dwelling and timber shed; and construction of a replacement dwelling and detached cart shed (Mr and Mrs J Wyatt)	Delegated Refusal	Part Allowed 3.9.13
GREENHAM 12/00426  Pins Ref 2199951	1 Dalby Crescent, Greenham Mr M Chidzey	Erection of 4 dwellings	Approval	Dismissed 26.9.13
CHIEVELEY 13/00025  Pins Ref 2199294	Land adj The Old Stables, Green Lane, Chieveley Mr and Mrs Ash	Erection of a 4 bed dwelling with assoc parking, turning, amenity space, landscaping and improvements to existing vehicular	Delegated Refusal	Dismissed 30.9.13

		access point		
COLD ASH 13/00763/FUL  Pins Ref 220041	Clover Cottage Westrop Farm The Ridge Cold Ash Mr B Clark	Demolition of existing dwelling, outbuildings and hard surfaces, erection of replacement dwelling with parking, revised curtilage and landscaping	Delegated Refusal	Dismissed 28.10.13

12/00426 Pins Ref 2195040	1 Dalby Crescent, Newbury, Berkshire, RG14 7JR	Replacement of an existing dwelling with the construction of 6 new units and associated car parking.	Rec. Approval	Refused 13.12.2012
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### **Procedural Matter**

Notwithstanding the description above, the proposal before the Inspector related to only four dwellings and he determined the appeal on that basis.

### **Application for costs**

An application for costs was made by Mr Chidzey against West Berkshire Council. This application is the subject of a separate Decision.

### **Main Issues**

The effect of the proposed development on: (a) the character and appearance of the surrounding area, (b) the living conditions of the neighbouring occupiers at No 3 in respect of loss of visual amenity and overshadowing, and (c) the existing services and infrastructure with regard to transport, education, public libraries, health care provision, open space and adult social care.

### **Reasons**

#### *Character and Appearance*

Policy CS14 of the West Berkshire Core Strategy (2012) [CS] requires new development to demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area. It also seeks to ensure that new development makes efficient use of land whilst respecting the density and character of the surrounding area. Policy HSG.1 of the West Berkshire District Local Plan (2007) [LP] states that new housing development will normally be permitted within the identified boundaries of Newbury subject to having regard to a number of criteria.

The first criterion refers to the existing residential nature of the area surrounding the site. Dalby Crescent is a cul-de-sac comprising a mix of semi-detached bungalows and two storey semi-detached houses. The two properties at the head of the Crescent are detached dwellings. The proposed development would comprise a pair of semi-detached two storey houses (plots 3 and 4) and two detached, two storey dwellings (plots 1 and 2) sited broadly at right angles to the semi-detached dwellings. The proposal would not therefore be out of keeping with the surrounding development in terms of housing mix.

The proposed layout would create a row of three residential elements at the head of Dalby Crescent. The appeal site is situated in a prominent location as the land rises towards it. The semi-detached dwellings would face directly towards Dalby Crescent and would be sited fairly close to the carriageway whereas the surrounding dwellings are set further back from the road. Plot 4 would be particularly prominent in this respect. This factor in combination with the overall scale of plots 3 and 4 would in the Inspector's judgement cause the dwellings to appear too prominent and over dominant in their relationship to the street scene. Accordingly they would not integrate well with or sit comfortably within the street scene. He acknowledged that the level of the land on which the proposed development would be sited would be lowered but this would not prevent plots 3 and 4 appearing as a discordant feature in this part of Dalby Crescent.

The proposed development would be evident in Greenham Road immediately to the rear of the appeal site. It would not however be unacceptably intrusive in its relationship to the wider views from Pyle Hill as only the upper parts of the dwellings would be visible. This is already the case for the existing bungalow and is consistent with the properties further along Greenham Road. This factor however would not ameliorate his concerns in terms of the frontage.

The second criterion seeks to protect any special features which give character not only to the site but the surrounding area. The existing dwelling has no exceptional characteristics. It is however set back from the head of the cul-de-sac and is therefore less prominent or visually intrusive than would be the case for plots 3 and 4. The Inspector did not take issue with the design of the proposed dwellings or that the density of development on the appeal site would be increased to 36 dwellings/ha. However the proposed layout at this density would result in an element of the proposal appearing out of keeping with the street scene.

In terms of the third criteria, the level of parking on the site would provide a ratio of 2.5 spaces per dwelling which would be fairly generous in this sustainable location. The proposal would not therefore result in an unacceptable level of on street parking, or local access difficulties. The final criteria pertinent to this case relates to the cumulative effects of infill development and its impact on residential amenity. The Inspector addressed this matter below. He acknowledged that the proposed development would make more efficient use of the land but this should not be to the detriment of the character of the area.

Although the Council did not refer to Policies ADPP2 and CS4 of the CS in its decision notice, these policies were alluded to in the Council's statement. The former policy relates to local townscape and the improvement of local gateways. In this respect he had already referred above to the effect of the proposed development on the Greenham Road/Pyle Hill setting and have found no demonstrable harm. Policy CS4 relates to housing type and mix. The policy also states that lower density developments below 30 dwellings/ha will be appropriate in areas of the District and the Council has indicated that this stricture is appropriate in this case. There was however no supporting evidence before him to demonstrate why, subject to an acceptable layout, a density above that figure would be necessarily harmful to the character of the area in this particular area of the District.

Accordingly, he found that the proposed development would fail to respect the character and appearance of the surrounding area and thereby result in an unacceptable level of harm. It would therefore conflict with Policies CS14 and HG.1. These policies are broadly consistent with the National Planning Policy Framework (the Framework) which seeks to promote high quality design which responds to local character.

#### *Living Conditions*

The Council has expressed concerns that the proposal would be overbearing and result in an unacceptable level of overshadowing in its relationship to No 3. The Inspector had however referred above to the reduction in ground levels at the appeal site which would form part of the proposed scheme. Plot 1 would be sited close to the side boundary with No 3. However, from the evidence before him, and his assessment at the site visit of the effect of the proposed changes in level, he was satisfied that they would significantly ameliorate any loss of residential amenity in terms of visual amenity and overshadowing which would be experienced by the occupiers of No 3. He noted that the officer's committee report reached a similar finding in terms of residential amenity.



Consequently, the proposal would not unduly harm the living conditions of the residents of No 3 and would not therefore conflict with Policy HSG.1. The policy is consistent with the Framework in this regard as one of its core principles is to secure a good standard of amenity for existing and future occupants.

#### *Services and Infrastructure*

The Community Infrastructure Levy Regulations state that regulation 122, which sets out the three tests of a planning obligation, will only apply where a relevant determination is made which results in planning permission being granted for the development. In light of his conclusion below, there is therefore no necessity for him to consider this matter.

#### *Other Matters*

The Council and interested parties have expressed concerns with regard to flooding associated with regard to effect of lowering the ground level on the levels of ground water in this part of Dalby Crescent. The Inspector noted however that the Council has suggested conditions relating to sustainable drainage arrangements. The occupier of No 3 has also raised the issue of the operations necessary to lower the ground in terms of the potential implications for the stability of boundary wall and the site. These matters however would be controlled by other legislation and/or civil law.

#### **Conclusion**

The Inspector concluded that his finding in respect of character and appearance represents convincing reasons why permission should be withheld in this case. This is not altered by his findings in relation to living conditions. For the reasons given above, the appeal does not succeed.

#### **Costs Decision**

The application for an award of costs is allowed in the terms set out below.

#### **The submissions for the appellant**

The costs application was submitted in writing. Reference is made to paragraphs B16 and B20 of Circular 03/2009.

#### **The response by the Council**

This was also in writing.

#### **Reasons**

Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Paragraph B16 asserts that planning authorities will be expected to show clearly why development cannot be permitted and produce evidence at the appeal stage to substantiate each reason for refusal with reference to the development plan and other material considerations. Paragraph B20 states that, as in this case, planning authorities are not bound to accept the recommendations of their officers. If however that advice is not followed authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision.

Two of the main issues in this case were character and appearance and living conditions. Paragraph B18 of the Circular states that planning appeals concerning character and appearance of a local area and living conditions often involve matters of judgement. It further states that where the outcome of an appeal turns on an assessment of such an issue it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of the proposed development.

The Inspector's appeal decision sets out the reasons why he had concluded that the proposal would harm the character and appearance of the surrounding area. He noted that the transcript of the members' discussions at the planning committee meeting when the application was considered also alluded to the specific adverse impact on the street scene that he had identified and he agreed with that assessment.

In terms of his findings on living conditions, he agreed with the appellant. In his judgement, there was no substantive assessment of this matter by the Council which took full account of the proposed changes in ground level. In this respect he considered that the Council has acted unreasonably resulting in unnecessary expense. He found therefore that, having regard to paragraphs B16, B18 and B20, a partial award of costs relating to the issue of living conditions is appropriate in this case.

DC

COLD ASH 13/00763/FUL  Pins Ref 220041	Clover Cottage Westrop Farm The Ridge Cold Ash Mr B Clark	Demolition of existing dwelling, outbuildings and hard surfaces, erection of replacement dwelling with parking, revised curtilage and landscaping	Delegated Refusal	Dismissed 28.10.13
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### Main issue

The main issue is the effect of the proposal on the landscape character of the North Wessex Downs Area of Outstanding Natural Beauty (AONB).

### Reasons

Westrop Farm is a group of mainly traditional buildings, including a Grade II listed threshing barn, set in an isolated position in a rolling landscape of farmland and woods within the AONB. The proposal is to replace a small modern bungalow with a substantial, chalet-style house to be sited nearby. The bungalow's garden would be returned to agricultural use and a new, slightly smaller garden area would be enclosed around the new house. The Inspector noted that the *North Wessex Downs Management Plan* indicates that proposals for new large free-standing houses as replacement dwellings in open countryside are a key issue for the AONB.

The bungalow is located just off the edge of what is otherwise a relatively tight group of buildings. Although it is not an attractive structure, its utilitarian appearance is not inappropriate in a farming context. It is in an elevated position compared to the rest of the buildings, but its low height and small scale prevent it from being overly prominent in the landscape. Although there are public views from a nearby public footpath, these are largely limited by the land form, so that in many views only the chimney is seen.

The proposed new house would be a handsome, well-proportioned building in its own right and would not affect the setting of the listed barn. The Inspector's concerns relate to its scale and siting in this sensitive context. It would be set much further away from the existing buildings, within what is currently an open field. It would be radically larger than the existing bungalow, even if allowance were to be made for a previously permitted extension to the bungalow (which was not built) and for the proposed demolition of other minor outbuildings. It would to his mind clearly be disproportionate in the terms set out in Policy ENV23 of the West Berkshire District Local Plan 1991-2006 (LP) and the Council's Supplementary Planning Guidance (SPG) *Replacement Dwellings and Extensions to Dwellings in the Countryside*.

The Inspector furthermore disagreed with the statement in the submitted *Landscape and Visual Impact Assessment* that the new ridge height would not be excessively higher than the existing bungalow. Though no definitive levels are given for the new ridge heights, it is clear from the submitted plans that they would be substantially higher than the bungalow, due to the rising ground and to the height of the structure.

As a result of these factors, the new house would appear as an out-of-scale structure, isolated from the farmyard group and intruding on this attractive pastoral landscape. A comprehensive landscaping scheme has been submitted, including tree and hedge planting both within the site and along the line of the public footpath. This planting, taken on its own, would enhance the local landscape. In time, it would also do much to mitigate the visual impact of the development, but it would not be sufficient to fully blend it into the landscape. The new house would continue to be intrusive.

The Inspector concluded that the proposal would unacceptably harm the landscape character of the AONB. It therefore conflicts with the aims of Area Development Plan Policies 1 and 6 and Policies CS14 and CS19 of the Core Strategy 2006-2026, LP Policies ENV22 and ENV23 and the SPG - to

ensure that developments including replacement dwellings are of a high quality of design that respects the character of the area and responds to local context, particularly in AONBs. These aims align with the National Planning Policy Framework's recognition of the intrinsic character and beauty of the countryside and its emphasis on securing high quality design.

He appreciated the investment being made by the appellant into the buildings and landscape at Westrop Farm, but this did not override his concerns about this particular proposal. There has been considerable discussion regarding the possible need for an agricultural tie on the new house, if it were to be permitted. The Inspector did not need to address that point here.

The degree of environmental harm which would result from this proposal means that it would not be sustainable development. For the reasons set out above, and having regard to all other matters raised, he concluded that the appeal should not succeed.

DC

12/03049 Pins Ref 2199951	Greenacres, Lower Green, Inkpen, RG17 9DN	Demolition of existing dwelling and timber shed and the construction of a replacement dwelling and detached cart shed.	Dele. Refusal	Spilt Decision  03/09/2013
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### **Main Issue**

The effect of the proposed development on the character and appearance of the surrounding area.

### **Reasons**

The appeal site is situated outside of any settlement boundary as defined in the West Berkshire District Local Plan (2007) [LP]. The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Policy ADPP1 of the West Berkshire Core Strategy (2012) [CS] relates to settlement hierarchy. Policy ADPP5 of the CS refers to housing policy within the AONB. Policy CS14 requires new development to demonstrate high quality sustainable design that respects and enhances the character and appearance of the area. Policy CS19 of the CS seeks to ensure that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character.

There is an extant planning permission (13/00563/FUL) for the demolition of the existing bungalow and timber shed and its replacement with a two storey dwelling and detached cart shed. The proposal before the Inspector differs from the approved scheme in that it includes a projecting rear element, a larger garage/store in a different location on the site and the siting of the proposed dwelling would be slightly further to the south. Both schemes would be sited in the area of the footprint of the existing dwelling. The key issue before him therefore is whether the changes associated with the appeal scheme in comparison with the approved dwelling would be acceptable in policy terms.

Policy ENV.23 of the LP and the supporting Supplementary Planning Guidance: *Replacement Dwellings and Extensions to Dwellings in the Countryside* (2004) [SPG04/3] are particularly pertinent in this regard. The policy sets out a number of criteria which any replacement dwelling in the countryside has to meet. In his judgement, criteria (b), (c) and (e) are directly relevant in this case. Criterion (b) requires that the proposed dwelling is not disproportionate in size to the dwelling being replaced. Section 3 of SPG04/3 relates to replacement dwellings in the countryside. It states that the percentage increase in volume or floorspace is a useful indicator of what may be disproportionate, but is only one matter to be taken into account.

Other factors to be considered include the comparison of the overall scale and massing of the replacement dwelling and the existing dwelling; the site characteristics and visual prominence; the impact on and relationship to adjoining buildings; and whether on balance, the proposed development maintains/enhances or detracts from the inherent character and nature of the site and surrounding rural environment. SPG04/3 indicates that an increase in floorspace of more than 50% would generally be regarded as disproportionate dependent upon site characteristics, scale and massing. It further states that an increase in excess of 100% would normally be regarded as disproportionate as it would be more visually dominant than the original, have a greater impact on the countryside and would not normally be considered a one for one replacement.

The Council has indicated a 293% increase in floorspace for the appeal scheme. The appellant has contended that the actual figure is 205%. In any event, the percentage increase would be

well in excess of 100%. The planning statement submitted in support of the approved dwelling and the Council officer's report indicate a floorspace increase of about 90%.

Criterion (c) of Policy ENV.23 requires that the new dwelling is of a high standard and appropriate to the rural character of the area. The appearance and scale of the main element of the dwelling which faces towards the road is identical to that of the approved scheme. The proposed rear and side elements would be subservient to and harmonise with the main element. The Inspector found no conflict therefore with this criterion in this case.

The Council has contended that the scale of the dwelling would be out of character with the existing residential development in the locality. There are however two further factors which, in his judgement, are material in this particular case. The first relates to the plot ratio. Although this is not specifically referred to in SPG04/3; as indicated above, the site characteristics and the inherent character and nature of the site are alluded to. In this context, the appeal site is of a significant area and the proposed dwelling would sit comfortably within it without unduly diminishing its inherent spacious character or nature. The proposed dwelling would not therefore appear out of keeping with its immediate setting. In this regard the appellant has submitted a contextual analysis plan. The plan indicates that the site coverage of 6.1% for the proposed development is lower than the average when compared to 10 of the other plots in the locality.

The Inspector recognised the concern expressed in SPG04/3 that even where a site is well screened, any increase in floor area in excess of 50% could harm the rural nature and qualities of the area and have a suburbanising effect, and if repeated, the impact on the countryside could be considerable. However, each case has to be considered on its own merits. In this particular case, the proposed dwelling would not have a suburbanising effect as the enlarged footprint would not appear over dominant in relation to the very generous size of the plot and the proposed extensions would relate well to the main element of the dwelling. Furthermore, the appellant has provided information relating to the approval of a number of sizable dwellings in Inkpen and he observed that there are dwellings with a reasonably generous footprint in the surrounding area of the appeal site.

Criterion (e) requires that the development is appropriate and sympathetic in scale, design, materials, layout and siting to the character and setting of adjoining buildings and spaces. The additional scale and massing of the appeal dwelling would be essentially related to the proposed two storey rear element and the single storey side element which would be attached to it. The site is well screened and proposed two storey addition would not be visually intrusive given its relationship to the main building element. In his judgement, the changes to the proposed dwelling vis a vis the approved scheme would therefore have no adverse visual impact on adjoining buildings (The Old School and Graftons) to the south of the appeal site or the wider street scene. However, the proposed larger detached garage which would be sited in front of the dwelling would result in a greater concentration of development at the front of the site in contrast to the approved scheme.

### **Conclusions**

In light of the above considerations, the Inspector found that the proposed dwelling would respect the character and appearance of the surrounding area and would be appropriate in terms of location, scale and design in the context of the existing settlement. Paragraph 115 of the National Planning Policy framework (the Framework) states that great weight should be given to conserving landscape and scenic beauty in AONBs. He noted however that the North Wessex Downs AONB Unit has commented that the proposal appears more modest in terms of

scale and overall design than the previously refused application and has made no adverse comments in respect of its impact on the wider AONB. In light of his findings above, he agreed with that view.

Accordingly, in overall terms, the proposed dwelling would not conflict Policies ADPP1, ADPP5, CS14 and CS19 of the CS, or Policy ENV.23 of the LP or SPG04/3. Nor would it be contrary to the Framework.

The Inspector had no concerns in terms of the principle of a detached garage/store on the site or the size and design of the structure before him. However, the proposed position of the building would be out of keeping with the surrounding area as it would result in an over concentration of development at the front of the site. This element of the proposed development would therefore cause unacceptable harm to the character and appearance of the surrounding area. The garage/store is physically and functionally independent from the proposed dwelling as the dwelling would be capable of being built without the garage/store and the proposed layout indicates an adequate level of parking space would be available in the absence of the garage/store. A split decision is therefore possible in this case.

Consequently, the Inspector found that the proposed garage/store would conflict with Policies CS14 and CS19 of the CS, Policy ENV.23 of the LP and SPG04/3. It would also be contrary to the Framework.

### **Conditions**

The Inspector imposed conditions to safeguard visual amenity. In this respect, Circular 11/95: *The Use of Conditions in Planning Permissions* states that conditions restricting permitted development rights should only be imposed in exceptional circumstances. He considered such a condition necessary in this case given location of the site within the AONB. He also strengthened the materials condition due to the site location and imposed a condition to protect wildlife habitats in the context of the Conservation and Habitats Regulations 2010. He also imposed a condition to confirm all of the plans upon which the decision to approve the proposed dwelling has been made for the avoidance of doubt and in the interests of proper planning.

### **Conclusion**

The Inspector considered all of the matters before him and, for the reasons given above; the appeal in so far as it relates to the proposed dwelling succeeds but, in so far as it relates to the proposed garage/store, does not succeed.

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CHIEVELEY 13/00025  Pins Ref 2199294	Land adj. to The Old Stables, Green Lane, Chieveley Mr and Mrs Ash	Erection of a 4 bed dwelling with assoc parking, turning, amenity space, landscaping and improvements to existing vehicular access point	Dele. Refusal	Dismissed 30.9.13
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### **Main Issues**

The justification for the proposed dwelling in this countryside location and the effect of the proposal on the character and appearance of the surrounding area. The effect of the proposed development on: (i) the archaeology of the site and (ii) the existing services and infrastructure in respect of public open space, public libraries, adult social care, education and transport. The achievement of sustainable construction.

### **Reasons**

#### *Justification/Character and Appearance*

The appeal site is situated outside of any settlement boundary as defined in the West Berkshire District Local Plan Proposals Map. The Proposals Map was adopted in 2002. The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Policy ADPP1 of the West Berkshire Core Strategy (2012) [CS] relates to settlement hierarchy. The policy indicates that most development will be within or adjacent to the settlements included in the hierarchy. Chieveley is indicated as a service village within the hierarchy.

Policy CS1 of the CS states that new homes will be primarily developed on suitable previously developed land within settlement boundaries, other suitable land within settlement boundaries, strategic sites and broad locations in the CS Key Diagram or land allocated in subsequent Development Plan Documents. The Policy also indicates that all settlement boundaries will be reviewed in the Site Allocations and Delivery Development Plan Document. There is no timescale indicated in the supporting text for its adoption but the appellant has stated that this process could take a further two years. Policy CS4 of the CS relates to housing type and mix and its effect on the character of the surrounding area.

The Council Officer's report also refers to Policies CS14 and CS19 of the CS. Policy CS14 requires that new development should respect and enhance the character and appearance of the area. Policy CS19 seeks to ensure that new development is appropriate in terms of the context of the existing settlement form, pattern and character.

In terms of housing need, the Council has indicated that a five year housing land supply exists in West Berkshire and this has not been disputed by the appellant. In this regard, the Inspector noted that paragraph 48 of the National Planning Policy Framework (the Framework) stipulates that any allowance for windfall sites in the five year supply should not include residential gardens.

The appellant drew the Inspector's attention to two appeal decisions relating to another site in Chieveley which is situated outside of the settlement boundary. The Inspector noted however that the land in question was already occupied by a dwelling which would be demolished in order to facilitate additional dwellings. Furthermore, when those decisions were made the whole of the site would have been classified as previously developed land (PDL). In contrast, the appeal site is in the form of an enclosed grassed area which is a continuation of the rear garden of The Old Stables and is not therefore PDL. One of the core principles in the Framework relates to the encouragement of the effective use of PDL. The appeal decisions do not therefore directly relate to the circumstances in this case.

The appellant has stated that the site is bounded on three sides by residential development. The Council has however contended that the type of loose knit development in the vicinity of the appeal site offers an important characteristic of West Berkshire's rural areas and that infilling will harm the transitional countryside area and the AONB. There is a cluster of dwellings immediately to the south

of the site and a row of dwellings to the east. The Old Stables is sited to the north but the area of garden including the appeal site provides a significant gap of undeveloped land on the west side of Green Lane. Furthermore, the land to the west of the site is a large swathe of garden land associated with residential property some distance away. In the Inspector's judgement, the appeal site does therefore contribute to a clear break in built development between siting of The Old Stables and the cluster of dwellings to the south.

The appellant also drew his attention to an extract from the Landscape Sensitivity Assessment of the Potential Impact of the Scale of Development in the North Wessex Downs AONB (2011) [LSA] which formed part of the evidence base for the CS. The extract relates to a parcel of land immediately to the south of The Colt House, the dwelling on the opposite side of Green Lane to the appeal site. The parcel of land is described as relating well to the settlement pattern in terms of scale and location with low density housing to the north and south. The extract further states that development on the site, subject to the retention of the existing boundary vegetation, would result in little harm to the natural beauty of the AONB.

In light of this, the appellant has argued that the appeal site is not significantly different to site to the south of The Colt House and is better contained and more visually part of the built up area. The identified site however would be contiguous with an established row of existing dwellings which face towards Green Lane and stretch back northwards to the main road running through the village. Any development on the site would therefore form a continuation of this pattern and grain. From the evidence before him, the Inspector also noted that the appeal site has not been identified in the LSA as a developable site and the document does not therefore provide any direct support for the development of the appeal site.

The appellant has also referred to the Chieveley Village Design Statement (2002) [VDS]. The VDS indicates however that its principal objective is to support the LP as supplementary planning guidance. He found no encouragement in the document for development beyond the settlement boundary. Reference is also made to the Chieveley, Oare and Curridge Parish Plan (PP). The PP is based on the results of a questionnaire process in 2008. One of the objectives of the PP is to ensure controlled and appropriate provision of housing in the Parish through planning policy to reduce the impact of infilling; preserve the rural aspect and to encourage brown field development. The proposal would not constitute brown field development and there is no evidence in the extract provided of any support for development outside of the settlement boundary of Chieveley.

The Inspector acknowledged that Chieveley, as a service village, has a range of services including direct bus services to Newbury. Policy ADPP1 does not rule out further housing development in the village but such development is required to be considered in the context of Policy CS1. Full regard also has to be given to the fact that the Framework gives great weight to conserving landscape and scenic beauty in AONBs.

In light of the above considerations, he found that there are no compelling grounds before him to justify a departure from development plan policy in this particular case with regard to the primacy of focussing development on previously developed land or other suitable land within settlement boundaries. Nor is there any case in terms of housing need. The Inspector found no direct conflict between the CS and the Framework in these regards.

He also found that the proposed development would interrupt the settlement pattern by partially eroding the natural break in built development on the west side of Green Lane as described above. In his judgement, this effect would adversely affect the character and appearance of the surrounding area. The harm to the wider landscape and scenic beauty of the AONB would however be more limited given the location of the site. Furthermore, he noted that the North Wessex Downs AONB Unit has also objected to the proposed development in the context of the above issues. Accordingly, the Inspector found that the proposed development would be contrary to the Framework and Policies ADPP1, CS1, CS4, CS14 and CS19.

### *Archaeology*

The appellant has submitted an archaeological evaluation and the Council has confirmed that the document has addressed its concerns with regard to archaeological remains on the site subject to the imposition of a condition. From the evidence before him, he agreed with that view. The proposed development would therefore conserve the historic assets of West Berkshire as required by Policies CS14 and CS19.

### *Services and Infrastructure*

The Community Infrastructure Levy Regulations state that regulation 122, which sets out the three tests of a planning obligation, will only apply where a relevant determination is made which results in planning permission being granted for the development. In light of his conclusion below, there is therefore no necessity for him to consider this matter.

### *Sustainable Construction*

The Council has indicated that insufficient information has been submitted to demonstrate that the proposed dwelling would achieve Level 4 of the Code for Sustainable Homes. The Council has however suggested a condition in this respect and the Inspector was satisfied that the imposition of such a condition would be sufficient to ensure compliance with the above requirement. The proposal would not therefore conflict with CS15 of the CS which promotes sustainable construction and energy efficiency.

### **Conclusion**

The Inspector concluded that his findings in respect of the justification for the proposed development and character and appearance represent convincing reasons why permission should be withheld in this case. This is not altered by his findings in relation to archaeology or sustainable construction. For the reasons given above, the appeal does not succeed.

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