

# Notice of Meeting

## Western Area Planning Committee

**Wednesday, 19 March, 2014 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: Monday, 10 March 2014

### **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 Elaine Walker on (01635) 519441 Email: [ewalker@westberks.gov.uk](mailto:ewalker@westberks.gov.uk)



West Berkshire  
COUNCIL

**Agenda - Western Area Planning Committee to be held on Wednesday, 19 March 2014**  
*(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 - 10

To approve as a correct record the Minutes of the meeting of this Committee held on 5 February 2014.

**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: 13/02741/FUL - Yattendon**

11 - 20

**Proposal:** Erection of shed

**Location:** Orchard Day Nursery, Everington Bungalow, Everington Hill, Yattendon

**Applicant:** Mr Andrew Webber

**Recommendation:** To DELEGATE to the Head of Planning and Countryside to **GRANT** planning permission



**WestBerkshire**  
C O U N C I L

**Agenda - Western Area Planning Committee to be held on Wednesday, 19 March 2014**  
*(continued)*

(2) **Application No and Parish: 12/02884/FULEXT - Greenham** 21 - 38

**Proposal:** Redevelopment of existing sports facility, and erection of 40 dwellings, with associated parking, garages, access and landscaping.

**Location:** Greenacre Leisure Pyle Hill Newbury Berkshire RG14 7SW

**Applicant:** Bloor Homes Limited

**Recommendation:** The Head of Planning and Countryside be authorised to **GRANT** planning permission, subject to the first completion of a s106 planning obligation.

(3) **Application No and Parish: 13/02581/COMIND - Greenham** 39 - 52

**Proposal:** Proposed sports and leisure club, with indoor and outdoor tennis courts, sports and leisure building, outdoor swimming pool, with associated parking and access, and landscaping.

**Location:** Land at Newbury Rugby Club, Monks Lane, Newbury.

**Applicant:** Stax Leisure [Newbury], Ltd.

**Recommendation:** The Head of Planning and Countryside be authorised to **GRANT** planning permission, subject to the first completion of a s106 planning obligation.

**Items for Information**

5. **Appeal Decisions relating to Western Area Planning Committee** 53 - 60  
*Purpose: To inform Members of the results of recent appeal decisions relating to the Western Area Planning Committee.*

6. **Site Visit Arrangements**  
*Purpose: To agree future site visit arrangements.*

**Agenda - Western Area Planning Committee to be held on Wednesday, 19 March 2014**  
*(continued)*

**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.

## **WESTERN AREA PLANNING COMMITTEE**

### **MINUTES OF THE MEETING HELD ON WEDNESDAY, 5 FEBRUARY 2014**

**Councillors Present:** David Allen, Jeff Beck, Paul Bryant (Chairman), Adrian Edwards (Substitute) (In place of Hilary Cole), Paul Hewer, Roger Hunneman, Andrew Rowles (Substitute) (In place of Virginia von Celsing), Anthony Stansfeld, Julian Swift-Hook and Ieuan Tuck

**Also Present:** Derek Carnegie, Sarah Clarke (Solicitor), Paul Goddard (Highways Development Control), Isabel Johnson and Elaine Walker (Principal Policy Officer)

**Apologies for inability to attend the meeting:** Councillor George Chandler, Councillor Hilary Cole and Councillor Virginia von Celsing

**Councillor(s) Absent:** Councillor Garth Simpson

## **PART I**

### **41. Minutes**

The Minutes of the meeting held on 15 January 2014 were approved as a true and correct record and signed by the Chairman, subject to the following amendment:

**Page 6, paragraph 4:** Amend 'Newtown Road' to read 'Newtown straight'.

### **42. Declarations of Interest**

Councillors Ieuan Tuck, David Allen, Julian Swift-Hook, Adrian Edwards and Jeff Beck declared an interest in Agenda Items 4(1), and 4(3) 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 Swift-Hook also reported that his use of a computer during the meeting was in order to access information relevant to the application.

### **43. Schedule of Planning Applications**

#### **43(1) Application No. and Parish: 13/02707/FULD, Greenham Parish Council.**

*(Councillors Tuck, Allen, Edwards and Beck declared a personal interest in Agenda item 4(1) by virtue of the fact that they were members of Newbury Town Council, however they would consider the application afresh. As their interest was personal and not a prejudicial or a disclosable pecuniary interest they determined to take part in the debate and vote on the matter).*

*(Councillor Swift-Hook declared a personal interest in Agenda item 4(1) by virtue of the fact that he was a member of Newbury Town Council and Greenham Parish Council, but reported that he would view the application afresh on its own merit. As his interest was personal and not a prejudicial or a disclosable pecuniary interest he determined to take part in the debate and vote on the matter).*

The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 13/02707/FULD in respect of 1 Dalby Crescent, Newbury.

## WESTERN AREA PLANNING COMMITTEE - 5 FEBRUARY 2014 - MINUTES

In accordance with the Council's Constitution, Mr Tony Forward, Parish Council representative, Mr Colin Fletcher, objector, and Mr Tom Brockman, applicant, addressed the Committee on this application.

The Chairman requested clarification as to whether there were any Tree Protection Orders on the site. Derek Carnegie confirmed that there were not.

Councillor Swift-Hook asked for confirmation of the extent to which the building height had been reduced. Derek Carnegie explained that a further review had been undertaken and this had shown the reduction to be 1 metre. The report that stated 0.5 metres was therefore incorrect.

Councillor Roger Hunneman asked what the difference was between the development of brownfield sites, and 'garden grabbing', and whether the Council had a policy in relation to development on gardens. Derek Carnegie replied that there was a lack of clarity about this difference and that it had become a matter for local authorities to decide. The Chairman stated that a good description of brownfield sites was 'previously developed land'. However Derek Carnegie said that the Council did not have a policy in relation to development on gardens and that these decisions were taken on a case by case basis.

Mr Tony Forward in addressing the Committee raised the following points:

- Newbury Town Council (NTC) had concerns over the definition of 'brownfield', and explained that the National Planning Policy Framework (NPPF) specifically exclude gardens. It was NTC's opinion that the Council should be more strict in the use of garden space for development;
- NTC were disappointed that more information was not provided to demonstrate the impact on the surrounding area due to the density of the proposed housing;
- Whilst it was acknowledged that the roofline had been lowered, there would remain a substantial impact as there had been no building there previously;
- NTC believed that condition 2 should remove all permitted development rights;
- The new application did not properly take into consideration the concerns of the Planning Inspector.
- Councillor Swift-Hook requested clarification as to the planning rights that NTC believed should be removed. Mr Forward confirmed that he was requesting that permitted development rights be removed to ensure that additional windows or window height velux windows for example were not permitted at a later date.

Mr Colin Fletcher, in addressing the Committee raised the following points:

- The current arrangement of housing along Dalby Crescent was that the houses on the right hand side of the road were set below road level, and on the left hand side of the road were bungalows. In Mr Fletcher's opinion, the proposed development would appear significantly taller than surrounding buildings;
- The location of Plot 4 meant that it would be unlikely to have a front garden;
- As a direct neighbour to the site, the development of the land would block sunlight from his back garden and reduce his privacy;
- Mr Fletcher was also concerned about parking for the new houses, stating that most families would have at least two cars, and with grown children and visitors this would increase again, requiring parking in the Crescent;
- Mr Fletcher stated that he had chosen to move to this bungalow following retirement for its quiet surroundings, and this proposal was very disappointing.

## WESTERN AREA PLANNING COMMITTEE - 5 FEBRUARY 2014 - MINUTES

Mr Tom Brockman, in addressing the Committee raised the following points:

- Mr Brockman believed that the issues raised by the Planning Inspector had been well considered and addressed appropriately in this application.

Councillor Swift-Hook, speaking as Ward Member, raised the following points:

- The application had caused considerable consternation amongst neighbours in Dalby Crescent, and having been in contact with both the objectors and the applicant he was able to see both arguments;
- Councillor Swift-Hook shared residents' concerns regarding parking and overlooking, and noted that despite the reduced height of Plot 4, it would still be clearly visible from the top of Dalby Crescent;
- The recent appeal decision had, however, identified the basis on which this application should be determined, and that was the impact of Units 3 and 4 on the surrounding area. Councillor Swift-Hook believed that the question to be considered was whether the reduced roof height was sufficient to overcome the Inspector's observations;
- Councillor Swift-Hook considered the issues to be finely balanced and remained undecided at this point.

Councillor Hunneman referred the Committee to paragraphs 7, 9 and 10 of the Planning Inspector's decision letter, where the Inspector had used phrases such as 'dominant' and 'out of character'. Councillor Hunneman acknowledged the reduced height of the building, but remained concerned about the overall impact of the development and considered it to be excessive.

Councillor Tuck expressed his concern with the amount of parking space allocated to these 4 family houses. He believed that as the families grew, this would cause even greater congestion in the road.

Councillor Paul Hewer expressed his sympathy with neighbouring residents, however he believed that the application adequately addressed the concerns raised at appeal and therefore believed that it would be difficult to defend a rejection of this application if it went to appeal again.

Derek Carnegie understood the concerns that had been raised during the evening, but reminded the Committee that the application met all of the Council's policy requirements for garden space, parking allowances and sustainability. Whilst the outcome might not be fully satisfactory, it would be difficult to defend a decision to refuse the application on any of these grounds.

Councillor Anthony Stansfeld commented that reducing the height of the roof by 1 metre was not sufficient to overcome the comments made by the Inspector in relation to dominance and integration.

Councillor Allen did not feel satisfied that the small adjustments made to the application would mitigate the Inspector's concerns.

Councillor Adrian Edwards commented that the parking spaces allocated per dwelling appeared generous when compared with locations nearer town where only one space per dwelling was provided.

Councillor Hunneman proposed that the Officer's recommendation to grant planning permission be refused. Councillor Allen seconded the proposal.

The Committee agreed that the reason for refusal was the impact of the development on the local amenity and street scene.

## WESTERN AREA PLANNING COMMITTEE - 5 FEBRUARY 2014 - MINUTES

At the vote the proposal was carried. Councillor Swift-Hook asked that it be noted that he abstained from voting.

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

### Reasons:

1. Notwithstanding the comments made in the Inspector's appeal decision letter regarding application 12/00426/FULD, the Council considers that the revised application on the site for 4 dwellings will still have a detrimental impact on the attractive street scene in Dalby Crescent, in particular with respect to plots 3 and 4 to the north of the site. There will also be an impact in visual terms upon the street scene on Pyle Hill/ Greenham Road to the west of the application site. The present attractive character of the vicinity will accordingly be significantly harmed contrary to the advice on good design as noted in the NPPF of 2012, Policy CS14 in the West Berkshire Core Strategy 2006 to 2026, and Policy HSG1 in the West Berkshire District Local Plan 1991 to 2006 (Saved Policies 2007). The application is thus unacceptable.
2. The applicant has failed to enter into the required s106 planning obligation which would mitigate the impact the new occupants of the housing would have upon the Council's facilities, services, and infrastructure. Accordingly, the application is contrary to the advice in the NPPF of 2012, para 122 of the CIL Regulations of 2010, as amended, the advice in the Council's Document, Delivering Investment from Sustainable Development adopted in June 2013, and policy CS5 in the West Berkshire Core Strategy 2006 to 2026. It is thus unacceptable.

### 43(2) Application No and Parish: 13/02569/FULEXT, Newbury Town Council

This item was withdrawn after the agenda had been published and prior to the meeting taking place and was therefore not discussed.

### 43(3) Application No and Parish: 13/01937/FULMAJ, Newbury Town Council

*(Councillors Tuck, Allen, Edwards and Beck declared a personal interest in Agenda item 4(1) by virtue of the fact that they were members of Newbury Town Council, however they would consider the application afresh. As their interest was personal and not a prejudicial or a disclosable pecuniary interest they determined to take part in the debate and vote on the matter).*

*(Councillor Swift-Hook declared a personal interest in Agenda item 4(1) by virtue of the fact that he was a member of Newbury Town Council and Greenham Parish Council, but reported that he would view the application afresh on its own merit. As his interest was personal and not a prejudicial or a disclosable pecuniary interest he determined to take part in the debate and vote on the matter).*

The Committee considered a report (Agenda Item 4(3)) concerning Planning Application 13/01937/FULD in respect of Phoenix House, Bartholomew Street, Newbury.

The Chairman asked why the building had been listed. Isabel Johnson replied that it was for both historical reasons and its contribution to the street scene. The Chairman went on to ask whether the building could have been modified internally simply by notifying the Council if it were not listed. Isabel Johnson confirmed this would have been the case.

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In accordance with the Council's Constitution, Mr Phil Barnett, Parish Council representative, and Mr Anthony Pick, objector, addressed the Committee on this application.

Mr Phil Barnett in addressing the Committee raised the following points:

- Newbury Town Council (NTC) were concerned that no Listed Building Consent had been submitted;
- NTC were pleased to see an application being put forward for this site which was in great need of renovation and repair both internally and externally;
- The building would contain 10 dwellings which was not of concern, however the fact that no parking had been allocated for the residents of this building was of great concern. NTC expected residents to travel away from Newbury and would therefore have a requirement for a car;
- NTC was further concerned that there would be no contribution for open spaces.

Councillor Hunneman asked Mr Barnett to clarify his remarks regarding parking. Mr Barnett explained that a large number of resident parking permits had been issued in the area and this raised a concern as to whether new residents would be able to obtain a permit, and if they were able to, whether there would be sufficient parking spaces for them in the vicinity.

Referring to the following speaker, the Chairman commented that Mr Anthony Pick had been shown as an 'additional speaker' outside of the Council's permitted categories of speaking. Taking legal advice on the application of the Council's constitution, the Chairman asked Mr Pick to speak as an objector, Mr Pick agreed.

Mr Anthony Pick, in addressing the Committee raised the following points:

- This was a landmark building, important to the street scene, and he was therefore glad that this application had been submitted;
- There were concerns that once the building had been returned to a good state of repair, the historical nature of the building would mean it would remain expensive to maintain, and unless provision was made for this, it would be difficult to ensure that future owners would sustain good maintenance;
- Whilst Officers consider that the parking requirements for the building had been adequately considered, it was Mr Pick's view that the spaces available in the locality would not suffice and might lead to residents searching for a parking space;
- Mr Pick wished to balance the negative aspects of this application with the need for the building to be repaired and brought back into use.

Councillor Swift-Hook asked whether Mr Pick was able to suggest a solution to the parking issue. Mr Pick primarily considered the parking to be insufficient, but suggested that perhaps the land behind the building might be explored to provide parking.

Councillor Tony Vickers, as Ward Member, raised the following points:

- The application to improve the building was welcomed, however there remained an issue with parking arrangements. Residents were concerned about the additional cars that would be generated by the new occupants;
- The parking issue was cumulative and should be considered in conjunction with other developments nearby, which placed a combined pressure on street spaces;

## WESTERN AREA PLANNING COMMITTEE - 5 FEBRUARY 2014 - MINUTES

- On balance, Councillor Vickers supported the application, and was keen to see the improved building. He also commented on the increase footfall to local shops that new residents would bring;
- It would have been improved by a contribution to the shared spaces that would inevitably be used by occupants and their families;
- A further concern was in relation to construction traffic and parking for builders whilst on site.

Derek Carnegie reminded the Committee that in relation to developer contributions, the Council's policy had been applied, and that if the Committee would like to see this amended, then the policy would need to be changed.

Paul Goddard responded to the concerns about construction traffic, informing the Committee that a Traffic Management Plan would need to be submitted to set out how these aspects would be managed.

Councillor Stansfeld declared his support for the application and the improvements to the building. He did, however, raise a concern about the inclusion of affordable housing within the building, and referred to Mr Pick's comments about the cost of long term upkeep of a historical building.

Councillor Swift-Hook commented that a recent application to turn a building into a freight distribution depot had required a contribution to libraries, and it did not appear sensible that this application for residential accommodation did not attract a contribution for open spaces. However, he acknowledged that policy had been followed, and suggested that this inconsistency might be considered in the future.

Councillor Edwards outlined his support of the scheme, commenting on the deterioration of the building, and expressed his surprise that the Conservation Officer had not issued an order to bring the building back into a good state of repair. Councillor Edwards was concerned with the proposal for a one room studio apartment which he would like to see amalgamated into another apartment, or divided to provide a second room. Councillor Edwards was also concerned that there was no contribution required to the upkeep of amenity space.

Isabel Johnson related that the Conservation Officer had advised that a division of the studio flat into two rooms would not be acceptable due to the installation of dividing walls in the historical building. The studio had therefore remained as a large, single room.

Councillor Hunneman expressed his concern with the parking arrangements, but was supportive of returning the building to a good state of repair allowing it to be brought back into use. Councillor Hunneman also considered that NTC should receive a contribution for the upkeep of shared spaces.

Councillor Hewer stated his support of the application which he believed would rescue the building, but remained concerned about the impact on local traffic of construction vehicles manoeuvring around the site and adjoining roads, and of the parking of construction workers.

Councillor Swift-Hook proposed that the Officer's recommendation to grant planning permission be agreed with an additional condition relating to the management of the construction. This was seconded by Councillor Edwards.

Councillor Swift-Hook asked for clarification on the number of dwellings within the proposal, as in some places 11 dwellings were mentioned. Isabel Johnson confirmed that the original plan had included 11 dwellings and this had been consulted on, but the number had been reduced to 10 since the consultation.

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Councillor Andrew Rowles supported the application, but commented that the Listed Building Consent would still be needed and this might address any internal issues. Councillor Rowles also believed that NTC should receive a contribution from the developer for open spaces.

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

#### Time limit

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

Reason: To enable the Local Planning Authority to review the desirability of the development against Policies CS14 and CS19 of the West Berkshire Core Strategy 2006 - 2026 and the National Planning Policy Framework should it not be started within a reasonable time.

#### Approved plans

2. The development hereby approved shall be carried out in accordance with drawing title numbers 1140/06 (amended), 1140/07 (amended), dated 05/01/14.

Reason: To ensure that the development is carried out in accordance with the submitted details assessed against National, Regional and Local Planning Policy.

#### Samples of materials

3. No development shall commence on site until samples of the materials to be used in the development hereby permitted have been approved in writing by the Local Planning Authority. Samples shall be made available to be viewed at the site. This condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the submission of samples of glass, plastic and mortar materials. Thereafter the materials used in the development shall be in accordance with the approved samples.

Reason: In the interests of visual amenity in accordance with Policies CS14 and CS19 of the West Berkshire Core Strategy 2006 - 2026.

#### Fencing and enclosures

4. No development or other operations shall commence on site until a scheme of fencing and other means of enclosure to be erected on the site has been submitted to and approved in writing by the Local Planning Authority and no buildings shall be occupied before the fencing and other means of enclosure have been erected to the satisfaction of the Local Planning Authority.

Reason: The fencing and other means of enclosure are essential elements in the detailed design of this development and the application is not accompanied by sufficient details to enable the Local Planning Authority to give proper consideration to these matters in accordance with Policies CS14 and CS19 of the West Berkshire Core Strategy 2006 - 2026.

#### Hard surfaces

5. No development shall commence on site until a scheme confirming any upgrade for the means of treatment of the hard surfaced areas of the site has been submitted to and approved in writing by the Local Planning Authority. No building

## WESTERN AREA PLANNING COMMITTEE - 5 FEBRUARY 2014 - MINUTES

shall be occupied before the hard surfaced areas have been constructed in accordance with the approved scheme.

Reason: In the interests of visual amenity, in accordance with Policies CS14 and CS19 of the West Berkshire Core Strategy 2006 - 2026.

### **Temporary Parking Area**

6. No development shall take place until details of a temporary parking and turning area to be provided and maintained concurrently with the development of the site has been submitted to and approved in writing by the Local Planning Authority. The approved parking and turning area shall be provided at the commencement of development and thereafter maintained in accordance with the approved details until the development has been completed. During this time, the approved parking and turning area shall be kept available for parking and used by employees, contractors, operatives, visitors, and other persons working on the site during all periods that they are working at or visiting the site.

Reason: To ensure that the development is provided with adequate parking and turning facilities during the construction period. This condition is imposed in order to minimise the incidences of off site parking in the locality which could cause danger to other road users, and long terms inconvenience to local residents. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026.

### **Communal Lighting**

7. No development shall take place until details of a system of lighting which shall include a scheme of illuminating pedestrian and cycle parking areas when the building is occupied has been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme of lighting shall be implemented prior to the development being brought into use and maintained in accordance with the approved scheme.

Reason: In the interest of security and 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).

### **Cycle parking and bin storage**

8. No dwelling hereby permitted shall be occupied until the cycle parking and bin storage has been provided in accordance with the approved floor plans and elevations to be approved and this area shall thereafter be kept available for the parking of cycles and storage of bins at all times.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the parking, storage and security of cycles as well as suitable provision of bin storage in accordance with Policies CS13 and CS14 of the West Berkshire Core Strategy 2006 - 2026.

### **Hours of work**

9. The hours of work for all contractors for the duration of the site development shall, unless otherwise agreed by the Local Planning Authority in writing, be limited to:-  
7.30am to 6.00pm on Mondays to Fridays 8.30am to 1.00pm on Saturdays and NO  
work shall be carried out on Sundays or Bank Holidays.

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Reason: In the interests of the amenities of neighbouring occupiers in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 - 2026.

### **Ecology**

10. Prior to works commencing on site, a survey of swift and bat use of the buildings will be undertaken and a report shall be submitted to the Local Planning Authority for approval. If either swifts or bats are found to be present, then the submitted report shall include a detailed mitigation plan including detailed construction drawings. Such approved mitigation works will be implemented in full and the measures maintained thereafter.

Reason: To ensure the protection of species protected by law and to accord with Policy CS17 (Biodiversity and Geodiversity) of the West Berkshire Local Plan and to accord with the NPPF.

### **CONS1 - Construction method statement**

- 11. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The statement shall provide for:
  - The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing
  - Wheel washing facilities
  - Measures to control the emission of dust and dirt during construction
  - A scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS5 and CS13 of the West Berkshire Core Strategy (2006-2026), Policy TRANS 1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

### **8.3 Informatives**

1. This Decision Notice must be read in conjunction with the terms of a Legal Agreement of the (date to be inserted upon completion). You are advised to ensure that you have all the necessary documents before development starts on site.
2. The Highways (Planning) Manager, West Berkshire District Council, Highways and Transport, Council Offices, Market Street, Newbury RG14 5LD, telephone 01635 519169, should be contacted to agree the access construction details and to grant a licence before any work is carried out within the highway. A formal application should be made, allowing at least four (4) weeks notice, to obtain details of underground services on the applicants' behalf.
3. It will be necessary to submit a separate Listed Building Consent. No work shall take place before Listed Building Consent is obtained.
4. The attention of the applicant is drawn to the Highways Act 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.

## WESTERN AREA PLANNING COMMITTEE - 5 FEBRUARY 2014 - MINUTES

5. Any temporary signing required as part of this development is to be agreed in writing with the Highway Authority, West Berkshire Council, Highways and Transport, Council Offices, Market Street, Newbury, RG14 5LD.
6. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of the adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning Service or the Council website.
7. All bats are protected by The Wildlife and Countryside Act 1981 (WCA) (as amended) & The Conservation of Habitats and Species Regulations 2010. Should you find bats during development, all work must stop until advice has been sought from Natural England. Their local contact number is 0300 060 3886.
8. This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has worked proactively with the applicant to secure and accept what is considered to be a development which improves the economic, social and environmental conditions of the area.

### OR

- 8.4 If the legal agreement is not completed within two months of the date of Committee to **DELEGATE** to the Head of Planning & Countryside to **REFUSE PLANNING PERMISSION** for the following reason:

The development fails to provide 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 the National Planning Policy Framework and Policies CS5 and CS6 of the West Berkshire Core Strategy 2006-2026 as well as the West Berkshire District Council's adopted SPD Delivering Investment from Sustainable Development.

### 44. **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 8.05 pm)*

**CHAIRMAN** .....

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

# Agenda Item 4.(1)

Item No.	Application No. and Parish	8/13 week date	Proposal, Location and Applicant
(1)	13/02741/FUL Yattendon	6 <sup>th</sup> February 2014. Extension of time To 21 <sup>st</sup> March 2014.	Erection of shed. Orchard Day Nursery Everington Bungalow Everington Hill Yattendon  Mr Andrew Webber

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

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=13/02741/FUL>

<b>Recommendation Summary:</b>	To <b>DELEGATE</b> to the Head of Planning and Countryside to <b>GRANT planning permission</b>
<b>Ward Member(s):</b>	Councillor Virginia Von Celsing
<b>Reason for Committee determination:</b>	Ward Member called in due to long and contentious planning history and local objections.  A Committee determination is also required due to number of representations received.
<b>Committee Site Visit:</b>	17 <sup>th</sup> March 2014.

<b>Contact Officer Details</b>	
<b>Name:</b>	Helen Robertson
<b>Job Title:</b>	Assistant Planning Officer
<b>Tel No:</b>	(01635) 519111
<b>E-mail Address:</b>	hrobertson@westberks.gov.uk

## 1. PLANNING HISTORY

<b>136265</b>	Change of Use from residential to Day Nursery Approved 21.02.1990
<b>141835</b>	Extension to Day Nursery (conservatory) Approved 22.03.1993
<b>142688</b>	Relaxation of Condition 2 of Application number 136265 to increase the number from 16 to 21 children Approved 14.07.1993
<b>151226/FUL</b>	Removal of Condition 3 of planning permission 141835 and removal of Condition 2 of planning permission 142688. Approved 01.10.1997
<b>08/00521/FUL</b>	Retrospective application for the erection of a log cabin for use as an educational classroom for the under 5's and variation of planning restriction to allow a maximum of 24 children to attend at any one time Approved 01.09.2008
<b>10/01769/CERTP</b>	Shed – Not lawful development - 04.07.2010

## 2. PUBLICITY

Site Notice Expired: 10<sup>th</sup> January 2014  
Neighbour Notification Expired: 9<sup>th</sup> January 2014

## 3. CONSULTATIONS AND REPRESENTATIONS

### 3.1 Consultations

**Parish Council:** OBJECT - is situated in an Area of Outstanding Natural Beauty. The construction using Galvanised Green Steel is not in keeping with the neighbouring properties and is in the direct site line of other properties.

There is a history of actions taken without planning permission and change of use, on this property. In view of this the application should be considered by the Planning Committee.

The construction will be sited on part of the area currently used for parking and turning and is likely to increase the congestion at the entrance.

In 1990 the Fire Brigade said that the bridge over the River Pang was considered too weak to allow the Fire Brigade to attend the Nursery / the properties.

The Parish Council support the Objections made by the immediate neighbours.

**Highways** The existing parking area is not shown on the submitted plans therefore I need to be certain that there will be no loss of the parking area as a result of the proposed shed.

Submit a revised plan showing the existing parking area in relation to the proposed shed.

**Highways (cont)** Following receipt of the revised plan - From the information provided this proposal does not affect the existing parking provision. No objection.

The proposed shed will not have an impact on any trees, but it is not clear what base will be used, if any. If a concrete base is required then a designated mixing site away from the Root Protection Area of any trees will be required as well as a storage area, which should be detailed in an Arboricultural Method Statement

Conclusion - I have no objection.

**Environmental Health**

Following receipt of an Arboricultural Method Statement - The information supplied via email by Andrew Webber on Tuesday 18<sup>th</sup> February 2014 is sufficient to fulfil the Condition, as it clearly states that the shed will be placed on existing slabs. The concerns were the type of base (not previous noted) and the effect it would have on the RPA's of adjacent trees, through mixing and storage of materials.

Have no comments to make.

**Education – Early Years Team**

The Orchard is a setting I support. I would be happy to support this application due to their commitment to continually improve the provision for the children in their care. They are dedicated to ensuring children access the grounds outside and the local area on a daily basis. An extra shed would help them with the limited storage they currently have.

### 3.2

#### **Representations**

Total 12

Object: 12

Support: 0

#### Summary of Comments:

- The existing business should not have been allowed in this location which was originally residential. If facilities insufficient here the business should be relocated.
- The reason for the application appears to be for the growth/expansion of the business and for commercial gain.
- There is a history of disregard for planning rules at the site. This includes increasing pupil numbers without permission, increasing parking at the site and removing trees and an existing earth bund. An existing log cabin was granted permission retrospectively and a further shed has been erected without permission. The log cabin was subsequently used as a classroom. Given the previous history there are concerns that this shed will be used for something other than what is applied for.
- The expansion of facilities will lead to greater pupil numbers. This will in turn lead to an increase in noise.
- An increase in pupil numbers will lead to highways and parking issues. Inappropriate due to existing narrow drive with dangerous entrance. The shed itself will cause a loss of parking/turning area within the site.
- The site is within the Area of Outstanding Natural Beauty (AONB) where there is a presumption against development. The further expansion of buildings on the site has an impact on the AONB.
- The design and materials for the shed are out of keeping and unsympathetic to the surrounding area and buildings. The proposal is out of keeping with the AONB.
- Proposal increases the footprint of buildings on an already overdeveloped site.
- The facilities for which the shed is required can be carried out in the existing building.
- The application states that no groundworks are required but the proposal will require electricity, water and drainage.
- The application refers to an existing hardstanding but there is none in this location.
- The proposed shed would be in close proximity to and in the clear view of neighbours. Due to the size and scale it will present an

unpleasant view for neighbours and will create a visual intrusion to the detriment of neighbours' outlook.

- Further comments received from an existing objector on receipt of additional information/amended plans (in summary)
  - The Applicants personal circumstances are not a planning matter. Alternative arrangements could be used for laundry (such as a laundry service) and suitable recycling operations could be made for commercial operations if domestic collection not suitable.
  - The Applicant chose to previously expand the business, should now seek alternative premises or cut down numbers rather than seek further development.
  - Parking for the mini bus will be affected, leading to a loss of parking/turning space in the car park.
  - The Applicant has suggested screening the shed with wooden fencing, this will add to footprint and visual impact.
  - Storage of frozen food not previously mentioned.
  - Applicant may be in breach of permission to operate with only 24 children.

#### **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 5: North Wessex Downs Area of Outstanding Natural Beauty
  - CS10 Rural Economy
  - CS13: Transport
  - CS14: Design Principles
  - CS19 Historic Environment and Landscape character
- 4.4 The following policies from the West Berkshire District Local Plan 1991 – 2006 (Saved Policies 2007) are relevant to this application:
  - HSG1: The identification of Settlements for Planning Purposes
  - ENV27: Development on Existing Institutional and Educational sites in the countryside.

#### **5. DESCRIPTION OF DEVELOPMENT**

- 5.1 The Orchard Day Nursery is a small nursery school providing day care for children aged between 1 and 5 years old located in the countryside between Yattendon and Hermitage. The application seeks planning permission for the erection of a shed in the grounds of the nursery. The shed measures 2.2 metres wide by 2.2 metres in depth and 2.3 metres in height. The shed would be constructed from an olive green coloured galvanised steel a

sample of which has been supplied. The shed would be located between the existing log cabin building with smaller shed attached and the designated mini bus parking bay to the south east of the main nursery building and car park. Planning permission is required for this relatively small structure as it does not comply with the criteria of the General Permitted Development Order in this instance.

- 5.2 The shed would be used for storage. For example for laundry equipment (a washing machine and tumble dryer) a freezer and for recyclable waste bins. The Applicant has confirmed that existing electric, water and drainage services are located within one metre of the proposal and are therefore easily accessible. The shed is a purpose built structure that comes with all the plumbing and electrical fittings installed. It is also well insulated and therefore ideal for the Applicants purposes. It will be installed on a small existing paved area.
- 5.3 The Applicant states the shed is required due to insufficient space for storage of such equipment in the nursery's kitchen which also serves as the office. Previously laundry was undertaken off site, at the Applicants home, but this is no longer possible due to a change in his circumstances. The shed would also provide space for recycling bins which is not undertaken at present due to insufficient space.
- 5.4 The Applicant has confirmed that there is no planned expansion of the nursery as a result of this proposed shed. The number of children attending will not increase. The Applicant states that he has in fact signed a legal document in conjunction with neighbours to ensure that the number of children attending the nursery can not be increased.
- 5.5 An amended Block Plan was submitted to show the location of all existing buildings on the site.

## **6. APPRAISAL**

The main issues raised by this proposal are:

- 6.1 The principle of the development;
- 6.2 The impact of the proposal on the character and appearance of the area;
- 6.3 The impact on the residential amenities of neighbours;
- 6.4 The impact on parking provisions and highway safety;
- 6.5 The presumption in favour of sustainable development.

### **6.1 The principle of the development**

- 6.1.1 The site lies outside of any settlement boundary as defined in policy HSG1 of the WBDLP. In planning terms it is therefore classed as being in the countryside. Policy ENV27 of the WBDLP which relates to existing educational sites in the countryside makes provision, within appropriate limits and having regard for the character of such sites and their wider setting, for development required by such uses to continue at a reasonable level and scale of operation.

Para 72 of the NPPF (whilst discussing schools but relevant here as this is an educational establishment) advises that in order to meet the needs of existing and new communities Local planning authorities should take a proactive, positive and collaborative approach to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools.

## **6.2 The impact of the proposal on the character and appearance of the area**

6.2.1 This part of Everington Hill contains a small cluster of residential properties and the day nursery in an otherwise mostly rural landscape. The nursery site is approached via a long driveway and is located to the south of the residential properties. Further south of the nursery site is open land with the M4 motorway beyond. The proposed shed is located towards the southern boundary of the site between an existing larger log cabin classroom building, with smaller shed attached and the designated mini bus parking area. It will not be visible from the highway to the north nor will it be highly visible from any other public viewpoint.

6.2.2 The proposed shed is of a typical pitched roof design and will be relatively modest in scale given its dimensions. In order to make an informed judgement regarding the proposed materials a sample was requested. The sample shows that the shed will be constructed in galvanised steel of a muted olive green colour. The colour is considered appropriate to the rural area. Consequently. The materials are, on balance, considered acceptable given the modest scale of the proposal.

6.2.3 The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Para 109 of the NPPF confirms the need to protect valued landscapes. The proposal will be partially screened by the existing larger log cabin building and by natural screening to the boundaries of the site. Land to the rear of the site rises upwards towards the M4 motorway. Given the scale of the proposal and the location near to existing buildings it is considered that the proposal would not be significantly more visually intrusive to the wider landscape area. Consequently the impact on the AONB is not considered significantly harmful. The Applicants offer to screen the shed with fencing is not considered necessary. Furthermore Policy ADPP5 of the WBCS states that small, local businesses will be supported, encouraged and protected within the AONB, providing local job opportunities and maintaining the rural economy.

6.2.4 Given the modest scale of the proposal and its proposed location it is not considered to contribute to any significant overdevelopment of the site. It is considered to be reasonable in proportion to the size and nature of the existing establishment.

6.2.5 The Applicant has confirmed that there is no intention to increase the number of children attending the nursery as a result of the proposal. The shed is required only to meet the operational requirements of the nursery.

6.2.6 The Tree Officer has confirmed that the proposal will not affect any existing trees at the site.

## **6.3 The impact on the residential amenities of neighbours**

6.3.1 A core principle of the NPPF is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

6.3.2 The proposal will be located over 35 metres away from Everington Cottage and over 40 metres away from Everington Barn, the immediate neighbours. Given the nature and location of the proposal it is therefore not considered to have any affect on light or loss of privacy to the occupants.

6.3.3 The main concerns of neighbours relate to a potential increase in noise, resulting from an

increase in children attending the nursery and the affect of the proposal on their outlook.

- 6.3.4 With regards to an increase in noise the Applicant has confirmed that there will be no increase in the number of children attending the nursery at any one time. It is likely that the proposed use of the shed will in itself generate some additional noise given that it will contain laundry equipment. The Council's Environmental Health Team were therefore consulted but had no comments to make.
- 6.3.5 With regards to an affect on outlook, given the modest scale of the proposal and the distances involved to the immediate neighbouring properties, this is not considered to be significantly harmful. For the same reasons the proposal is not considered to have any overbearing affect.

#### **6.4 The impact on parking provision and highway safety**

- 6.4.1 The Highways Officer has confirmed that the proposal does not affect the existing parking provision and has no objection to the proposal.
- 6.4.2 The concerns of neighbours relate to a potential increase in children attending the nursery and the affect on parking and increased traffic movements. As previously stated there is no intention to increase numbers.

#### **6.5 The presumption in favour of sustainable development**

- 6.5.1 The NPPF has introduced a presumption in favour of sustainable development which in para 197 advises should be applied in assessing and determining development proposals. 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.

Given the scale of the proposal it makes a small contribution to the economy in terms of supporting the operational needs of the nursery and in the social role in terms of supporting a local service that reflects a community need.

With regards to the environmental role contributing to protecting and enhancing our natural, built and historic environment is fundamental. The impact on the character and appearance of the surrounding area has been assessed as part of this application, and it is considered that the proposal would respect the prevailing pattern of development. For the above reasons it is considered that the development is supported by the presumption in favour of sustainable development.

### **7. Conclusion**

- 7.1 Having taken account of all the relevant policy considerations and the other material considerations referred to above, it is considered that, having regards to the clear reasons to support the proposal as outlined above the development proposal is considered to be acceptable.

### **8. Full Recommendation**

**DELEGATE** to the Head of Planning and Countryside to **GRANT PLANNING PERMISSION** subject to the following 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.

Reason: To enable the Local Planning Authority to review the desirability of the development against Policy CS14 of the West Berkshire Core Strategy (2006 - 2026) should it not be started within a reasonable time.

2. The development hereby approved shall be carried out in accordance with drawings titled: Dimensions of Proposed Shed and Roof Plan of Proposed Shed; received on 12<sup>th</sup> December 2013, an amended Block Plan; received on 22<sup>nd</sup> January 2014, the Parking Plan; received on 29<sup>th</sup> January 2014 and the Arboricultural Method Statement; received on 18<sup>th</sup> February 2014; unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is carried out in accordance with the submitted details assessed against Policy CS14 of the West Berkshire Core Strategy (2006 - 2026).

3. The materials to be used in this development shall be as specified on the application form and the sample of steel from Capital Coated Steel Ltd, colour: LG S2704 olive green; received on 24<sup>th</sup> January 2014. No other materials shall be used unless prior agreement in writing has been obtained from the Local Planning Authority.

Reason: In the interests of amenity in accordance with Policy CS14 of the West Berkshire Core Strategy (2006 - 2026).

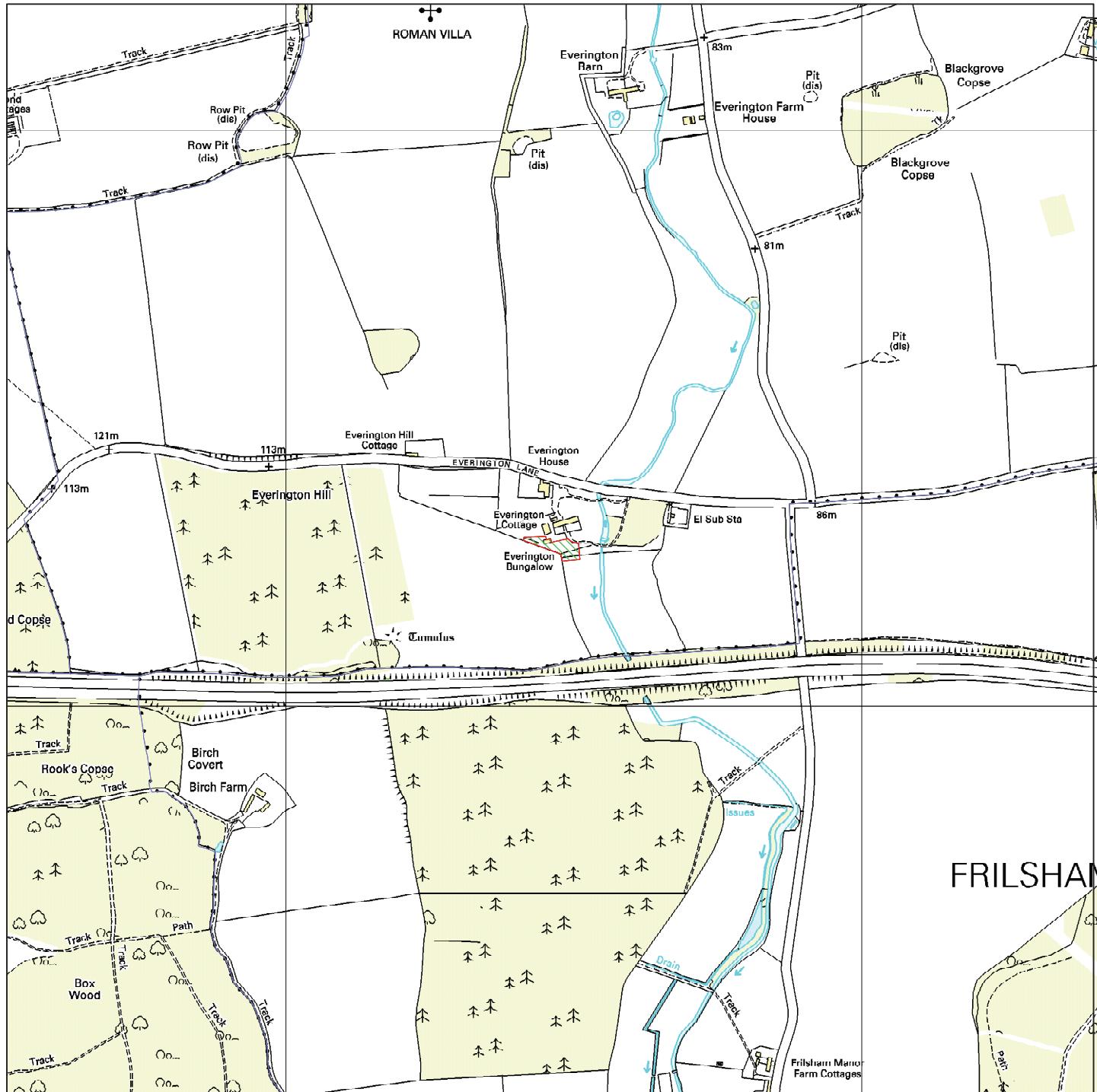
#### **Informatives:**

1. This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has secured and accepted what is considered to be a development which improves the economic, social and environmental conditions of the area.
2. The decision to grant planning permission has been taken because the development is in accordance with the development plan and would have no significant impact on the character and appearance of the area or the residential amenities of the occupants of the adjacent dwellings. This informative is only intended as a summary of the reason for the grant of planning permission. For further details on the decision please see the application report which is available from the Planning Service or the Council website.

DC

13/02741/FUL

Orchard Day Nursery, Everington Bungalow, Everington Hill, Yattendon



Map Centre Coordinates : 453461.00 , 174272.46

Scale : 1:10000

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One Inch = 254 Metres

Metres 200 400 600

Organisation	West Berkshire Council
Department	Environment
Comments	
Date	10 March 2014
SLA Number	100015913

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# Agenda Item 4.(2)

Item No.	Application No. and Parish	Proposal, Location and Applicant
(2)	12/02884/FULEXT Greenham	<p>Redevelopment of existing sports facility, and erection of 40 dwellings, with associated parking, garages, access and landscaping.</p> <p>Greenacre Leisure Pyle Hill Newbury Berkshire RG14 7SW</p> <p>Bloor Homes Limited</p>

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

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=12/02884/FULEXT>

<b>Recommendation Summary:</b>	<b>The Head of Planning and Countryside be authorised to GRANT planning permission, subject to the first completion of a s106 planning obligation.</b>
<b>Ward Member(s):</b>	Councillors Drummond and Swift Hook.
<b>Reason for Committee Determination:</b>	Major application and considerable public interest, plus more than 10 objections.
<b>Committee Site Visit:</b>	17 <sup>th</sup> March 2014.

<b>Contact Officer Details</b>	
<b>Name:</b>	Michael Butler.
<b>Job Title:</b>	Principal Planning Officer.
<b>Tel No:</b>	(01635) 519111
<b>E-mail Address:</b>	mbutler@westberks.gov.uk

## **1. Site History**

Considerable number relating to the sports centre e.g. extensions and lighting, new access road, and new tennis domes.

Most recent and relevant. 12/02939/comind. Land to the north - replacement sports facility with associated car parking. Withdrawn December 2013.

## **2. Publicity of Application**

Press Notice Expired: 27<sup>th</sup> December 2012.

Site Notice Expired: Original - 2<sup>nd</sup> January 2013.

Amended plans: 16<sup>th</sup> May 2013.

Further amended plans on landscaping - expiry on 11<sup>th</sup> December 2013.

## **3. Consultations and Representations**

<b>Parish Council:</b>	Continue to object to the application despite amended plans being received. No affordable housing being provided on site. Loss of a very valuable local sports facility.
<b>Newbury Town Council</b>	Concerns based upon impact on TPO trees, loss of a highly valued local sports facility, concerned about lack of affordable housing on the site, contrary to para. 74 in the NPPF of 2012.
<b>Highways</b>	No objections and there will be only a minor overall net gain in vehicle movements from the site. No s106 contribution sought. However amended plans sought on minor technical details.
<b>Environment Agency</b>	A satisfactory flood risk assessment has now been submitted. Original objection removed. Conditional permission.
<b>Sport England</b>	Object to the application on original plans, since it will result in the loss of a much valued local sports facility, and consider that the proposed replacement facility, in terms of quantity particularly in respect of the 2 squash courts, is lacking. Does not comply with para. 74 in the NPPF. Amended response following update – note that a replacement facility of potentially equal value is to be provided off site so subject to an appropriate linking s106 agreement, objection removed.
<b>Ecologist</b>	No objections.
<b>Natural England</b>	Do not object to the application as it will have no detrimental impact upon the adjacent SSSI.
<b>Transport Policy Officer</b>	No objections per se. The information provided for potential future housing occupants re. travel to and from the site other than by the private car, is satisfactory.

<b>Planning Policy</b>	Planning Policy - Core Strategy Policy CS1: Delivering New Homes and Retaining the Housing Stock states that new homes will be primarily developed on suitable previously developed land within settlements. The site has been identified through the SHLAA and assessed as potentially developable, with the loss of recreational facilities identified as a constraint to be addressed. The site is within the Greenham settlement boundary on previously developed land. It is not, however, currently regarded as a suitable previously developed site due to the existing use. Policies to protect community facilities mean that this site can only be considered suitable if the leisure facilities are re-provided in some manner. Elsewhere it is noted that the replacement facilities may not be adequate so this aspect of the objection is also not met.
<b>Fire and Rescue</b>	Possible need for further hydrants on the site.
<b>Archaeology</b>	No objections. Site is of no heritage significance.
<b>Thames Water</b>	No objections.
<b>Housing Officer</b>	Affordable housing. Under extant policy 30% of the dwellings [i.e. 12 units] will need to be for affordable purposes. NB - the applicants have submitted a confidential viability assessment [VA] which seeks to demonstrate that NO affordable units can be provided on site as to do otherwise would make the application scheme non viable, in the light of the provision of the new sports centre at the Rugby Club - See below.
<b>Environmental</b>	Recommends conditional planning permission.
<b>Health</b>	
<b>Tree Officer</b>	To be reported.
<b>Newbury Society</b>	Object on the basis of the loss of the Greenacre Leisure facilities. Also about the apparent lack of affordable housing.
<b>MoD</b>	No safeguarding objections.
<b>Thames Valley Police</b>	Some detailed comments regarding the precise layout of the housing scheme, in relation to resident safety and so forth. No objections per se.
<b>Landscape Consultant</b>	Recommends that the application should be rejected, on the basis that much of the valuable internal tree cover will be lost, so causing local visual impact, to the area's detriment.
<b>S106 Contributions</b>	PCT- £7693, Education - £157,760, Adult Social Care - £26,892, Public open space - £70,021, Libraries - £11,012, Waste - £2260.

<b>Representations</b>	83 letters of representation received. On original plans the Council has received 53 letters of objection. It should be stressed here that the vast majority of the objectors are not overly concerned with the introduction of new housing per se on the application site, but, rather, the ensuing loss of the valued sports centre as a consequence. These objections have been duly canvassed in the associated application for the new sports centre 12/02939/comind. However, this application has been subsequently withdrawn. Some distinct objections also correlate to the fact that no affordable housing is being provided, the increased traffic generation arising for the additional 40 dwellings which will be greater in their view than the sports centre flows, there is no need for additional housing in any event, and some detailed comments about the specific layout of the housing site which will impact upon adjoining amenity. Also loss of trees and current open space on the site which is attractive. A further 30 letters of objection received on the amended plans / information submitted, but again the same views apply as above i.e. the significant majority of the objections are based upon the loss of Greenacres as opposed to the new housing. Similar reasons as before.
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#### **4. Policy Considerations**

The NPPF of 2012.

West Berkshire Core Strategy 2006 to 2026. Policies ADPP1 and 2, CS1, CS4, CS5, CS6, CS13, CS14, CS15, CS18, CS19.

West Berkshire District Local Plan 1991 to 2006 Saved Policy HSG1.

Delivering Investment from Sustainable Growth - adopted June 2013.

CIL Regulations 2010. Para 122.

#### **5. Description of Development**

- 5.1. The application site is a roughly rectangular plot of land about 1.73 ha in extent lying within the defined settlement boundary of Greenham as identified under saved policy HSG1 in the Local Plan 1991 to 2006. It comprises a partial brown field site, and partial green field site, in a highly sustainable location. It is occupied by Greenacres Leisure Centre, a privately owned business, built up initially in the 1970s, to date. There is a club house, three squash courts, tennis courts [indoor and outdoor] a 20m swimming pool, and studio, plus gym, with associated parking and amenity area. The sole vehicle access is derived off Pyle Hill to the east, whilst an open area of land lies to the north, with housing to the west and south. For clarity, the reason that the site is explained as being part green field, is due to the areas of open amenity space within the curtilage of the sports centre, which, according to a strict interpretation of the definitions of previously developed land in the NPPF, is green field. References to "brown field" in the remainder of this report is thus a generic term in the context of this definition.
- 5.2. The applicant is proposing to demolish all of the buildings on the site and erect in their place 40 dwellings - detached, semi detached and terraced units. 23 will be detached, 8 to be semi detached and the remainder [9 No.] will be terraced. Twelve of the units will be 4 bed, 23 will be three bed, and the remainder 2 bed [5 No.]. Most will be two storey but some will be 2.5 storey with rooms in the roof space. They will be of traditional design, and materials - red/orange brickwork and grey roof tiles. The houses are to be arranged around a circular spine road, with a small children's play area located to the west of the site. The access point will be in a similar location to the existing access point onto Pyle Hill. The present tree screen to the east of the site will remain in order to screen the housing from the public highway. Parking will be at the minimum of a 200% ratio i.e. no less than two spaces per dwelling, some having more. Each dwelling will have their own, individual,

garden plot, plus cycle parking - laid out as required. The houses will be of traditional design, being all 2 or 2.5 storey in height, with hipped roofs / dormers as designed. The character will be reminiscent of that in Pinchington Grange to the south - recently built out.

5.3. Town and Country Planning Environmental Impact Assessment Regulations, 2011.

The application site exceeds 0.5 ha in extent, and so accordingly, being an urban development scheme, falls to be considered under Schedule 2 Part 10[b] of the above Regulations. The Local Planning Authority is accordingly required to screen the application submitted, as to whether an Environmental Statement [ES] was needed. On the 17<sup>th</sup> December 2012, the Council determined, having regard to the advice in Schedule 3 of the Regulations, that no ES was required.

**6. Consideration of the Proposal**

6.1 Planning Policy.

The West Berkshire Core Strategy 2006 – 2026 is clearly the up to date document against which the application is required to be addressed, although saved policy HSG1 in the West Berkshire District Local Plan (Saved Policies 2007), is also of relevance.

6.2 In terms of the Core Strategy [CS], the following is apposite. Policy ADPP1 is the overarching spatial strategy, which seeks to direct most new development, including housing, within or adjacent existing settlement boundaries. In addition, the majority of new building will take place on previously developed land. The application site conforms to these two principal requirements/ tests.

6.3 Secondly, policy ADPP2 sets out the criteria in considering future housing within Newbury. It notes, *inter alia*, that some housing sites will be “windfall” sites as existing infill, identified through the SHLAA process [Strategic Housing Land Availability Assessment]. The proposal, if permitted, is categorised as a windfall site.

6.4 Thirdly, policy CS1 notes the number of new houses which the Council must/ should permit over the Plan period, being 10,500 net additional dwellings. If this application is permitted, this will add 40 units to that figure, in a highly sustainable location.

6.5 Planning policy CS5 sets out how the Council will seek to mitigate the impact of new occupants of housing have upon the District’s infrastructure and so on. It is understood that should the application be permitted, the applicant can enter into the required s106 obligation to ensure delivery of this funding. The total is just over £275,000. Policy CS6 notes that all new housing schemes on brown field sites where over 15 dwellings, must normally provide 30% affordable housing on site, i.e. 12 units. This is however subject to the appropriate viability testing as recognised in the NPPF. This issue is specifically addressed in detail below.

6.6 Policy CS13 sets out the issues which the Council needs to address in relation to highways matters. The new access onto Greenham Road is considered to be acceptable, as is the on site parking at 200% i.e. 2 parking spaces per dwelling. The internal road layout is also considered to be satisfactory. The highways officer has concluded that there will be an overall minor impact on the local highway network arising from an increased traffic generation from the site, over and above that created by the existing sports centre. The existing traffic generation is 217 two way movements over a 12 hour period, whilst that of the housing will be 225 daily over the same 12 hour period. A s106 highways contribution is accordingly not sought on this scheme as a freestanding application, but, clearly the associated traffic generation from the “partner” application for the new sports centre at the Rugby Club, also on this agenda, will need to be taken into account in terms of s 106 highways contributions.

6.7 Policy CS14 in the Core Strategy sets out the design principles which should be addressed, in considering planning proposals. The case officer has considered the submitted layout and house designs in some detail and has concluded that the scheme will create an attractive adjunct to the existing housing "estate" to the north, causing little, if any harm to local amenity. It will be well screened from Greenham Road to the east by existing tree buffering, and from views to the north by proposed additional screen planting on the northern boundary. Physical distinction from the Cedars to the south is considered to be adequate, whilst the overall housing density at 23 units per ha is considered to be low, and reflects the present character of the vicinity.

6.8 Policy CS15 corresponds to Sustainable construction. It is anticipated that should planning permission be granted, a condition will be applied ensuring code for sustainable homes level 4 will be achieved. Next, policy CS18 in the Strategy seeks to retain green infrastructure [GI] wherever possible in the District. Under the definitions, open / outdoor sports facilities are included as such infrastructure. So, in normal circumstances, the loss of such GI is not accepted, unless suitable replacement GI is provided elsewhere. In this case, via the proposed linking s 106 agreement [see below] between this application and number 13/02581/comind, officers consider the loss is acceptable. This is clearly a balancing act in the light of the loss of a valuable community sports facility, but officers consider that so long as the implementation of this application is clearly linked to the implementation of the new sports centre at the Rugby Club, such objections should pass away.

6.9 Finally, policy CS19 in the Plan seeks to conserve and enhance where possible existing landscape character. The presence of Greenacres on the northern sector of Greenham undoubtedly adds to the visual softening of the area, adjacent the "gap". It is envisaged that this soft character will be inevitably diminished by the introduction of the new housing, which is substantially more built development than that as existing on site. Balanced against this visual harm [as the Council's landscape consultant alludes to] is the fact that not only will 40 more houses be permitted in a sustainable location, but, the Council has the opportunity to seize a very modern sports centre, also to the south of Newbury. It will be reiterated below, but the Council has no planning control whatsoever over the potential future closure of Greenacres, which is a private facility. Unless of course this application is approved, and an associated s106 agreement will then ensure the retention of Greenacres for a certain period i.e. 12 months after Stax leisure purchase [part] of the Rugby Club site. This should be borne in mind, when applying the planning balance, having regard to the relevant policy tests, and any physical "harm"/ benefits arising, from the new housing.

6.10 The National Planning Policy Framework of 2012.

The Government published the above in March 2012. It is the strategic/ national planning policy advice, and is especially useful where local policy is out of date and/or silent. Paragraph 47 notes that Local Planning Authorities should encourage the supply of much needed housing wherever possible, and in para 48 notes that an allowance should be made for windfall sites, such as this application. Perhaps of more significance is the section on promoting healthy communities, para 69 onwards. In particular, Councils should guard against the loss of valued facilities, which includes sports centres. Furthermore, para 74 notes that sports buildings [inter alia] should not be redeveloped unless it is clearly shown that they are not required. In this District, there can be no doubt that Greenacres is a highly valued and important local and well established sports centre, which is important not only for sport but also health and social/ community cohesion reasons, as espoused in the NPPF. Accordingly, if the applicant does not put in place a mechanism by which a suitable replacement facility can be provided, the application would certainly be recommended for refusal by officers. However Members will know elsewhere on the agenda that this is what is specifically promoted at the Rugby Club.

6.11 The principal question thus remains as to whether that replacement facility, in terms of both location and quality/size, is sufficient to meet not only the advice in the NPPF, but also the objection/ advice made by Sport England, and of course the local objectors. This is examined in detail in that other report, as this application must consider simply the principle of the loss, and the housing scheme itself. Suffice it to say that officers consider the new sports centre, with the exception of the loss of one squash court, will be a significant improvement over Greenacres, which has not seen any substantial investment over the last few years. It will accordingly fully comply with the advice in the NPPF.

6.12 Housing layout.

In regard to both policies HSG1 and CS14, noted already, it is important for the Council to examine the impact, if any, the new housing will have upon not only proposed internal amenity, but also external amenity, in terms of existing surrounding housing to the west and south. The case officer has examined the layout in some detail, and is satisfied that the amended layout meets all the minimum design criteria for distances between housing, in order to respect such amenity. For example, plots 3, 5 and 9 on the south perimeter of the site have minimum separation of 21m, 28m and 23m respectively to the closest houses to the south in The Cedars, [back to back] whilst plot 7 is 15m from the closest dwelling to the south and this is a rear to flank elevation. Otherwise, the nearest dwellings are on the west boundary to Hook Close.

6.13 The closest relationship is between plot 17 [end terrace of three] with No. 7 Hook Close - flank to flank elevation. This is 6m. The roof of plot 17 also has a full hip roof to reduce any impact further. Given that the existing Greenacres building is very close up to the party boundary, so already has a dominant impact upon the existing housing, this layout is considered to be satisfactory. Other minimum distances are 15m and 20m respectively between plots 19 and 18. [rear to flank]. In regard to proposed internal amenity and layout, there is just one problem between plots 21 and 34, plus 23 and 32, within the internal loop. Their back to back distances are 20, not 21m. Amended plans have been requested to rectify this situation. Otherwise, the layout is considered to be satisfactory. The applicant has submitted street scene elevations, which depict an attractive and varied scene, which will be acceptable for the locality.

6.14 Accordingly, the application is believed to fully comply with the advice in policies HSG1 and CS14 in terms of amenity. It assists of course that the housing scheme is to the north and east of existing housing, so impact due to any loss of light will be minimised.

6.15. Visual Impact.

The applicants have submitted a comprehensive and well produced Visual Impact Analysis of the proposed site, which has been examined by the case officer. The report concludes that given the fairly well contained urban fringe nature of the local plateau landscape, and the fact that substantial buildings are already located on site [such as the tennis domes - to be demolished] - the introduction of the housing will not have a detrimental impact upon the area. This is assisted by the fact that the whole of the application site lies within the defined settlement boundary of the town/ parish, and the number of public viewpoints of the site are relatively limited, having regard to the local footpath network, and the range of existing mature trees, particularly on the eastern boundary, to be retained and enhanced. In addition, a new tree belt is to be planted up on the north perimeter, which will further assist in screening the development from the north and Greenham Road viewpoints. Indeed it is concluded that there are no long distance views of the site [in excess of 1km] available and only limited middle distance views. Having said that, the visual impact [not landscape impact] for existing residents, particularly to the south of the application site, will be substantial to moderate, in terms of private views, which will diminish over time as local landscaping matures.

6.16 The Committee will know that private view loss, unless demonstrable harm to amenity is proven, is not a planning issue, however. Having regard to the advice in policy CS19, in the Core Strategy, which deals with, *inter alia*, landscape character, the loss of Greenacres and the insertion of the 40 dwellings with associated garaging etc will have a minimal impact on the local landscape integrity and quality. It is thus considered acceptable in this regard.

6.17. Submitted Viability Assessment and affordable housing.

The Committee may be aware that the applicant has submitted an amended viability appraisal for the scheme as a whole, in relation to the delivery of the new off site sports centre. This has been submitted, in the light of not only guidance within para 5.30 of policy CS6 in the Core Strategy, corresponding to affordable housing, but also the specific advice in the NPPF – paragraph 173 in particular. Just to set the details out. Policy CS6 would normally require that 30% of the 40 units are to be affordable i.e. 12 units. Unless a viability assessment suggests otherwise, as noted in the NPPF. The Council has asked that an independent assessor be retained, to examine the submitted appraisal, in order to see if it fully justifies no affordable housing being provided on site, but an allowance still made for the s106 contributions - currently standing at a total of £275,638. The further £127,000 s106 highways contribution at the Monks Lane site also needs to be taken into consideration, in the viability appraisal. It is understood that Bloor Homes will be paying the highways contribution for Stax Leisure in addition, so further affecting their viability position. Finally, just for clarity, for reasons of commercial confidentiality, the figures employed in the actual assessment cannot be made public.

6.18 A number of factors militate against the ability of the developer to provide affordable housing on site, namely the agreed purchase prices for both sites, and the fact that land contamination remediation costs are likely to be high at Greenacres, given the landfill site to the north with the ongoing potential for gas migration to be contained properly. The conclusion of the Council's independent report is that with the current market housing prices, the land costs noted and so on, no affordable housing should be supplied on the site, if it is to be viable, meeting a normal developer profit expectation of 20%, on gross development value. Whilst a number of minor queries have been raised by the assessor, which have been responded to be the applicant, your officers fully concur with the reports conclusions. That is, if the Council were to require even a lower percentage of affordable housing on site [e.g. 10%] this would effectively place the whole scheme in jeopardy, and so the delivery of the new leisure centre at Monks Lane.

6.19 Whilst officers do not wish to diminish in any way the clear and continuing importance of affordable housing delivery across the District, to put the 12 units in context; at the first stage of the Racecourse site [11/00723/ resmaj refers], 127 affordable housing units are being provided, by the Developer, at present. In addition, for example, under a recent planning permission at Himley Lodge in the centre of town it is expected that 11 further affordable dwellings will be soon provided. It will be for the Committee to consider the balance of advantage in regard to the affordable housing issue, and the new sports centre.

## 7. Conclusion

7.1. This is a difficult application for the Committee to assess, given the range of issues which need to be carefully taken into account, in arriving at a suitable determination. The following issues are apposite:-

7.2. In favour of the application.

The construction of 40 houses, on a largely [but not wholly] brown field site, in a sustainable location.

The construction of an off-site new sports centre, which will be a significant future asset for the town as a whole.  
The provision of the required s106 planning obligation funding to mitigate the impact of the proposed developments.  
The minimal visual impact of the proposals.

### 7.3. Against the application.

The non-provision of 12 much needed affordable housing units.  
The loss of the Greenacre Leisure facility. A much valued local facility. However, it is to be replaced elsewhere.

The view of officers, is that whilst the non-delivery of the affordable housing is regrettable, it is fully justified having regard to the opportunity to realise the new sports centre elsewhere, and the fact that Greenacres could close at any time, outwith planning control.

In conclusion, having regard to the strong reasons to support the application, a favourable recommendation is made to GRANT conditional planning permission for the application in question. This recommendation is made on the basis that the planning permission is only linked to an agreement that ensures the delivery of the sports centre as applied for under application number 13/02581/comind, the required s 106 funding noted, and the delivery of an additional rugby club pitch at the Monks Lane site. It is expected in the update sheet that the proposed draft heads of terms of the s106 obligation will be set out.

## 8. Full Recommendation

**The Head of Planning and Countryside be authorised to GRANT planning permission subject to the first completion of the required s 106 planning obligation. This to include all the funding contributions noted, plus the linkage of the implementation of the housing with the implementation /funding of the new sports centre at the Rugby Club.**

If for any reason the required s 106 obligation is not completed by the end of December 2014, the application, if expedient be refused for the following reason.

Notwithstanding the applicants willingness to do so , the required s 106 planning obligation has not been completed, which would mitigate the impact the new housing occupants would have upon the Council's infrastructure, facilities and services, plus provide the necessary linkage between the delivery of the housing site, with the delivery of the new sports centre noted. Accordingly, the application is contrary to the advice in the NPPF, policy CS5 in the West Berkshire Core Strategy 2006 to 2026, para 122 of the CIL Regulations of 2010, and the advice in the document Delivering Investment from Sustainable Development June 2013. It is thus unacceptable.

## 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.

Reason: To enable the Local Planning Authority to review the desirability of the development against the advice in the DMPO of 2010.

2. No development shall commence, until samples of the materials to be used in the proposed development have been submitted on the application site, and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the

submission of samples of glass, plastic and mortar materials. Thereafter the materials used in the development shall be in accordance with the approved samples.

Reason: In the interests of visual amenity in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

3. The development layout shall be as in the amended plan number 57285:1F.

Reason: To clarify the planning permission.

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 and the development shall be carried out in accordance with the approved levels.

Reason: To ensure a satisfactory relationship between the proposed building and the adjacent land in accordance with policy CS14 and CS19 of the West Berkshire Core Strategy 2006 to 2026.

5. The hours of work for all contractors (and sub-contractors) for the duration of the site development, which shall include demolition, shall, unless otherwise agreed in writing by the Local Planning Authority, be limited to; 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 CS14 of the West Berkshire Core Strategy 2006 to 2026.

6. 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).

7. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

## 1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:

human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

adjoining land,

groundwaters and surface waters,

ecological systems,

archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

## 2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## 3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

## 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

## 5. Long Term Monitoring and Maintenance (If required)

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with LPA, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. In accord with the advice in the NPPF of 2012.

8. No development shall commence until the applicant has submitted to the Local Planning Authority a scheme of works or such other steps as may be necessary to minimise the effects of dust from 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 the amenities of neighbouring occupiers. In accord with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

9. No development shall commence until a Construction Management Plan has been submitted to the Local Planning Authority. The plan should detail items such as phasing of construction, lorry routing and potential numbers, 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 should make note of any temporary lighting that will be 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 Statement shall be first agreed in writing with the Local Planning Authority.

Reason: To ensure potential disruption is minimised as much as possible during construction in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

10. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reasons .Shallow foundations are proposed for the dwellings, which would be acceptable, however the design has not been finalised and deep piles or ground improvement works have the potential to mobilise contaminants or create new contaminant pathways from the adjacent landfill. In accord with the advice in the NPPF of 2012.

11. No infiltration of surface water drainage into the ground that is contaminated is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason. While the site has low levels of contamination identified it is possible that infiltration has the potential to mobilise contaminants migrating from the adjacent landfill site which have the potential to reach nearby ponds and watercourses to the south. In accord with advice in the NPPF of 2012.

12. All landscape works shall be completed in accordance with the submitted plans, schedule of planting and retention, programme of works and other supporting information including drawing numbers Drawing No. 0067 'Landscape Strategy Plan'. Any trees, shrubs or hedges planted in accordance with the approved scheme which are removed, die, or become diseased within five years from completion of this development shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.

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.

13. No development (including site clearance and any other preparatory works) shall commence on site until a scheme for the protection of trees to be retained is submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with B.S.5837:2012. Such fencing shall be erected prior to any development works taking place and at least 2 working days notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Note: The protective fencing should be as specified at Chapter 6 and detailed in figure 2 of B.S.5837:2012.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Policy CS18 of West Berkshire Core Strategy 2006 to 2026.

14. No development or other operations shall commence on site until details of the proposed access, hard surfacing, drainage and services providing for the protection of the root zones of trees to be retained has been submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of trees identified for retention at the site in accordance with the objectives of Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

15. No development or other operations shall commence on site until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority and shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area.

Reason: To ensure the protection of trees identified for retention at the site in accordance with the objectives of Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

16. No development shall take place (including site clearance and any other preparatory works) until the applicant has secured the implementation of an arboricultural watching brief in accordance with a written scheme of site monitoring, which has been submitted to and approved in writing by the Local Planning Authority. In addition, no development or other operations shall commence on site until a detailed schedule of tree works including timing and phasing of operations has been submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Policy CS18 of West Berkshire Core Strategy 2006 to 2026.

17. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The statement shall provide for:

- (a) The parking of vehicles of site operatives and visitors
- (b) Loading and unloading of plant and materials
- (c) Storage of plant and materials used in constructing the development
- (d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing
- (e) Wheel washing facilities
- (f) Measures to control the emission of dust and dirt during construction
- (g) A scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS5 and CS13 of the West Berkshire Core Strategy (2006-2026), Policy TRANS 1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

18. No dwelling shall be occupied until the visibility splays at the site access have been provided in accordance with the amended drawing received electronically on the 7<sup>th</sup> March 2014. The land within these visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 0.6m 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 shall be occupied until the vehicle parking and/or turning space have been surfaced, marked out and provided in accordance with the approved plan(s). 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 shall be occupied until the site access onto Greenham Road/ Pyle Hill has been constructed in accordance with the approved drawing(s).

Reason: In the interest 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).

21. No dwelling shall be occupied until the cycle parking has been provided in accordance with the approved drawings and this area shall thereafter be kept available for the parking of cycles at all times.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the parking, storage and security of cycles. 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 take place until details of the provision for the storage of refuse and recycling materials for the dwellings have been submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the refuse and recycling facilities have been provided in accordance with the approved details and shall be retained for this purpose thereafter.

Reason: To ensure that there is adequate and safe refuse/recycling facilities within the site. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

Informatics.

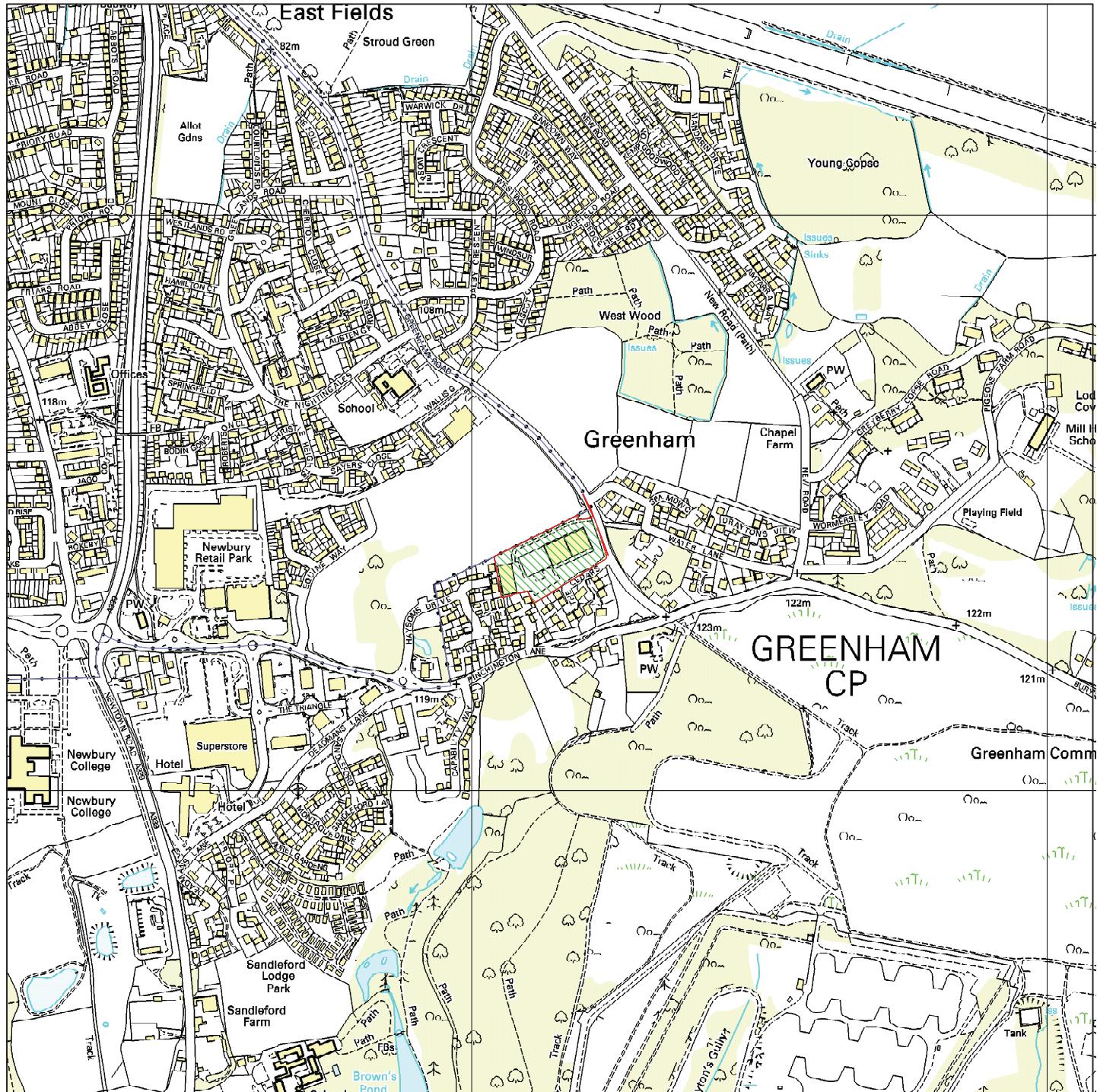
- 1 This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has worked proactively with the applicant to secure and accept what is considered to be a development which improves the economic, social and environmental conditions of the area.

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12/02884/FULEXT

Greenacre Leisure, Pyle Hill, Newbury



Map Centre Coordinates : 448137.69 , 165420.09

Scale : 1:10000

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One Inch = 254 Metres

Metres 200 400 600

Organisation	West Berkshire Council
Department	Environment
Comments	
Date	10 March 2014
SLA Number	100015913

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# Agenda Item 4.(3)

Item No.	Application No. and Parish	Proposal, Location and Applicant
(3)	13/02581/COMIND Greenham	<p>Proposed sports and leisure club, with indoor and outdoor tennis courts, sports and leisure building, outdoor swimming pool, with associated parking and access, and landscaping.</p> <p>Land at Newbury Rugby Club, Monks Lane, Newbury.</p> <p>Stax Leisure [Newbury], Ltd.</p>

To view the plans and drawings relating to this application click the following link:  
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=13/02581/COMIND>

<b>Recommendation Summary:</b>	<b>The Head of Planning and Countryside be authorised to GRANT planning permission, subject to the first completion of a s106 planning obligation.</b>
<b>Ward Member(s):</b>	Councillors Drummond and Swift Hook.
<b>Reason for Committee Determination:</b>	Major application, not appropriate to delegate, and more than 10 objections.
<b>Committee Site Visit:</b>	17 <sup>th</sup> March, 2014.

<b>Contact Officer Details</b>	
<b>Name:</b>	Michael Butler.
<b>Job Title:</b>	Principal Planning Officer.
<b>Tel No:</b>	(01635) 519111
<b>E-mail Address:</b>	mbutler@westberks.gov.uk

## 1. Site History

Most relevant.

- 142801. Construction of playing fields, clubhouse etc for new rugby club. Approved 1996.
- 150285. Relaxation of condition 19 of 142801, in order to allow outdoor sales. Approved 1997.
- 07/00534/comind. S73 application. Allow Sunday markets. Approved 2007.
- 09/02204/comind. Construct all weather pitch. Approved 2010.
- 13/02598/out. Erection of new nursery building. Pending consideration.

## 2. Publicity of Application

Press Notice Expired: 12<sup>th</sup> December 2013.  
Site Notice Expired: 5<sup>th</sup> December 2013.

## 3. Consultations and Representations

<b>Parish Council:</b>	Objection. Reduction in squash courts. Why an outdoor pool? Layout within gym is poor. Due consideration for bats. GPC believe that there should be no time delay between opening of new centre, if approved, and closure of Greenacres.
<b>Newbury Town Council</b>	Objection/comment: Members were concerned at the total lack of affordable housing; Members feel that this is not a financially viable scheme. Insufficient facilities – proposed plans do not seem to provide the facilities that Sports England suggested; Members did not agree that demand for squash has fallen and that any reduction in squash courts is justified.
<b>Highways</b>	Amended plans sought on minor technical details. Increased traffic generation onto Monks Lane, needs to be mitigated via a s 106 contribution of £127,000. Conditional permission recommended.
<b>Sport England</b>	Will remove their outstanding objection, so long as the proposed replacement pitches at the Club to the north are implemented, via a s 106 obligation. Policy E4 applies. Would remove their objection to the loss of Greenacres [12/02884] if a mechanism is found to ensure replacement via this current scheme
<b>Berkshire Squash Raquets Association</b>	Object to the application since it still entails the loss of one squash court. Will have a detrimental impact upon competitions etc.
<b>Archaeologist</b>	Site area has limited potential for finds. No objections.
<b>Planning Policy</b>	Comment that whilst not objecting to the application, they note that the site is green field lying outside any defined settlement boundary. However, it is noted that the new centre lies in a very good location for the Sandleford Park Housing Allocation, and meets some of the objectives of the Newbury Vision, in enhancing local sports facilities. The views of Sport England should be sought, and in addition the decision taker should satisfy themselves that the sequential and impact tests as defined in the NPPF have been met, if the application is to be approved.
<b>Public Open Space</b>	Given that the application will obviously enhance local sports facilities, no contribution is requested.

<b>Tree Officer</b>	Area of ancient woodland lies to the south of the site, but given the 15m buffer zone, this will not be affected. However a lime tree avenue on the proposed access route should be maintained. Conditional permission is duly recommended.
<b>Economic Development Officer</b>	Supports the application, since it will provide 40 additional jobs and will comply with the economic strategy for the District. Officer note - it should be noted that jobs will however be lost at Greenacres.
<b>Fire Service</b>	Additional hydrants required on site. Condition this on any permission.
<b>Newbury Society</b>	Object. The loss of one squash court breaks the principle of para 74 in the NPPF regarding suitable replacement facilities. Also cannot see the linking justification for the "loss" of 12 affordable units at Greenacres. The latter would be commercially viable if suitable investment had been put into it over recent years.
<b>Thames Water</b>	Do not object, but request various conditions re fat traps and oil interceptors, plus controls on the swimming pool discharges.
<b>Waste Services</b>	No comments offered.
<b>Natural England</b>	No objections made. Does not affect any local SSSI.
<b>Ecologist</b>	Views awaited. Cross sections requested.
<b>Environmental Health</b>	Conditional permission – re. noise on air handling plant, plus lighting control.
<b>Environment Agency</b>	No objections. A suitable flood risk assessment has been submitted. The site is less than 5ha in a flood zone 1 area, so risk of flooding is low - see standing advice.
<b>Correspondence</b>	19 letters of objection received. Most concerned about reduction of squash courts from 3 to 2, poor layout, why an outdoor pool, is not a good replacement for Greenacres. If approved what of timing delays, and how can the Council be assured about implementation of the new scheme, if Greenacres closes. As the application is linked to Greenacres, still need affordable housing on that site. One letter of support, but no reasons given. One further letter from an agent representing occupants of the sheltered housing site to the north concerned about noise and lighting impact on residents on the site, if the scheme proceeds.

#### **4. Policy Considerations**

National Planning Policy Framework, 2012.

West Berkshire Core Strategy 2006 to 2026. Policies ADPP1, ADPP2, CS5, CS6, CS10, CS13, CS14, CS15, CS18, CS19.

West Berkshire District Local Plan 1991 to 2006 [saved 2007] Policy HSG1.

Delivering Investment from Sustainable Development June 2013.

#### **5. Description of Development**

- 5.1 The application site lies to the south of Monks Lane in Newbury, on an existing green field site, comprising rugby pitches. It lies to the west of the present club house of Newbury Rugby Club, and to the south of the Cloisters and the St Johns Surgery. It is proposed to access the site off the existing Monks Lane access into the Rugby Club. The site has a

total area of 1.5ha. It is proposed to erect a 2 storey sports centre, comprising the following: indoor pool, [20m length], lounge, kitchens, spa and sauna on the ground floor, and on the first floor, a gym, 2 squash courts, spinning room, and 2 gym studios. Outside will be another swimming pool, plus 4 enclosed tennis courts and 2 external ones, a terrace, and a 180 parking space car park.

- 5.2 The mini overflow rugby pitch will remain to the north of the site, whilst ancient woodland [Barn Copse] will lie to the south, with an intervening 15m buffer zone. There is also to be cycle storage for visitors and staff.
- 5.3 Whilst the application is a freestanding one, in both physical and planning terms, the Committee will note from elsewhere on this agenda, that should the scheme be approved, it will be linked to the application 12/02884 for housing at Greenacres, also in the same parish. In addition, for information, whilst not considered on this agenda, the applicants have submitted an outline application for a new children's nursery building to the south of the application site [13/02598/out]. Any decision on this scheme [without prejudice] should be related to the result of Committee's deliberations.

#### 5.4 Town and Country Planning Environmental Impact Assessment Regulations 2011.

The application site area is 1.5ha. As such, it falls to be considered under part 10[b] of the above regulations, in Schedule 2, being an urban development scheme. Accordingly, the Council, having regard to the advice in Schedule 3 of those Regulations, on the 25<sup>th</sup> February 2014, determined that NO environmental statement was required to be submitted for the application in question. The applicant has submitted a considerable amount of information/ reports in relation to the submission, which allows the Council to adequately assess the scheme, in terms of its potential environmental impacts.

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

The application falls to be considered under the following primary matters, of policy [national and local] transport/ highway implications, visual impact, and other issues such as s106 contributions and continuity of provision.

#### 6.1 Planning Policy.

- 6.1.1. The National Planning Policy Framework [NPPF] was published in 2012. This sets out a number of tests upon which new sports and leisure facilities must "pass" before being considered favourably by Local Planning Authorities. The first test relates to the **sequential test**, as identified in para 24 of the NPPF. This corresponds to main town centre uses [which includes sports centres] if the application site does not lie within an identified town centre. The next default location should be edge of centre, and then out of centre sites. The current application site is the latter, being in fact out of settlement, on a green field site. This sequential test is applied in the interests of not only promoting town centre vitality and viability, but also in the overall interest of sustainability, having regard to the accessibility of this public facility to the general public.
- 6.1.2. The applicants, in their submitted Planning Statement, have undertaken a fairly basic sequential test, which, in their view, clearly demonstrates that the 1.5ha facility, being of 3144m<sup>2</sup> gross floor area, cannot possibly be located within any suitable site closer to the town centre, and remain viable. This is based on the following two principal premises. Firstly, the value of land cost closer to the town centre, on brown field sites, are such that the provision of the new centre would not be possible. Secondly, the future profitability of the centre can only "work" on the basis that all the varied sports uses, such as the swimming pools, gym stations, tennis courts and so on can only operate in one combined centre, when reduced overheads and administration costs are taken into account, not to mention the obvious benefits to the customer of having a variety of facilities on one site.

This corresponds to the dis-aggregation element of the sequential test, i.e. whether a smaller component of the proposal [e.g. the tennis courts] could be located on a smaller site closer to the town centre. Officers have viewed the four possible sites that might be available closer to Newbury centre, as identified by the applicant's agent, and have concluded that there is NO viable alternative, particularly when the clear linkage benefits of the location at the Rugby Club are also taken into account. The last sentence of para 24 in the NPPF specifically requires not only Developers, but also Councils to show flexibility when judging applications, in regard to the sequential test. Officers are of the opinion that it would not be reasonable to refuse the present application upon the sequential test alone, nor would there be any clear planning basis for so doing. Just for information, the four possible sites noted by the agents are Hutton Close, Northcroft Park, the London Road Industrial Estate, and Market Street.

6.1.3. Paragraph 26 of the NPPF sets out the nature of the **Impact Test**, which should be applied to any leisure [inter alia] uses not proposed in a town centre, where the size threshold being in excess of 2500m<sup>2</sup>. The application site accordingly needs to be examined on this basis. The premise of the impact test, is the need to protect existing facilities from undue competition, which would/ might otherwise harm the viability of an existing centre. Impact upon local consumer choice, and planned future investment should also be taken into consideration. The applicants have commissioned sports solutions to examine this impact, who have concluded that impact will not present a problem. This is based on the following points:-

- 1 - The Greenacres centre will close in any event, so this will itself create an element of unmet demand.
- 2 - Members will appreciate that the town has a growing population, a proportion of which will be interested in participating in organised sport, based at new leisure centres.
- 3 - The site is very well located in relation to not only the existing Rugby Club, but also the potential sports quarter envisaged by the Council in the Newbury Vision, encompassing not only the adjacent Park House School, but also the Sandleford Park Housing allocation of up to 2000 dwellings overall.
- 4 - Having regard to the comparison between Greenacres and the new centre, and the overall provision of health and fitness "stations" within a 15 minute drive time of the Rugby Club, it is expected that given future population growth, and an increasing participation in sports, the core catchment could support up to 662 stations, a rise of 140 over the present capacity. The present application simply supplies an increase of 34 stations, so only meets 24% of the potential shortfall.
- 5 - Officers are not aware of any planned future investment elsewhere in the 15 minute catchment, which might be put in jeopardy if this centre is built out. Similarly, if built, it will undoubtedly enhance local consumer choice, in sporting facilities.

Accordingly, having regard to the basis of the impact test, it is concluded that this new centre will have no harmful impact upon the continuing viability and vitality of Newbury Town centre. As such, policy CS11 in the Core Strategy will not be undermined. In addition, the last bullet point in policy ADPP2 in the Core Strategy, corresponding to the need to avoid closure of important community and leisure facilities, is respected, since this scheme provides a replacement of such a planned closure.

6.1.4. **Paragraph 74** of the NPPF corresponds to the need to ensure that where planning applications would result in the loss of existing sporting fields [inter alia] this should be duly compensated elsewhere, unless it can be shown that the loss is clearly surplus to present and future needs. In addition, if an existing sports centre is lost, the replacement facility must be at least of equal quality and quantity. This is probably the most contentious aspect of this application, when linked not only to the closure of Greenacres, but also the loss of existing rugby pitches at the Rugby Club. Most [but not all] letters of objection have been based on these factors, including the potential time lag between the closure of Greenacres, and the opening of the new facility.

6.1.5. Taking the rugby club land first. The applicants have submitted a report by Sports Solutions which examines the loss of the rugby pitches. This makes the following concluding points. In the District there are currently 36 adult and 12 junior pitches at 18 sites [including schools.] However, about two thirds are not available for public use. And, significantly, local participation rates in the District's population is much higher than the national average at 1.67%. Accordingly, it is important that new rugby pitches are re-provided at the Club, if the NPPF test is to be met, and Sport England satisfied. The applicants are thus proposing that should the application be approved, this will provide funding for the following. One full sized main stadium pitch [existing] 4 additional full size pitches, 2 of which are to be floodlit, and 4 mini rugby pitches. This will mean that the actual number of all pitches at the Club will rise, overall. Sport England, in looking at the proposal overall, have concluded that the above will satisfy their exception policy E4, in that the loss of pitches will be mitigated elsewhere. However, in doing so, they make the valid point that any planning permission should be linked via a s106 obligation, to ensure that the planned new pitches are actually constructed as proposed, following implementation phases of the new leisure centre, for obvious reasons. It is understood that the applicants are willing to enter into such an agreement. They have thus removed their original objection to the application per se.

6.1.6. Exception policy E5 is also quoted by Sport England, who suggest that it is for the Council to consider, under the NPPF policy, whether the replacement sports facility is indeed an adequate replacement for Greenacres. This will now be examined.

6.1.7. The new leisure centre will have the following: 34 more fitness stations, 1 more floodlit outdoor tennis courts, one new outdoor pool, and one new aerobic plus spinning studio, when compared to Greenacres. In addition in terms of pure replacement, the indoor tennis courts will remain [4 No.] as will the badminton markings, and no change to indoor swimming. The sole detriment will be the reduction of the three squash courts to two. This is on the basis that the applicant/operator does not consider that the introduction of three courts is justified in economic terms. The Council has received many objections from existing players on this basis, but the level of objection, whilst obviously legitimate, is not wholly understood, given the actual usage of squash courts at Greenacres, and indeed across the town, having regard to existing courts at other centres. So, although strictly speaking the precise replacement for squash is not being made at the new centre, the following is prayed in aid by the applicants, with which officers concur.

1 - There will remain a reasonable volume of spare squash court capacity in the local catchments.

2 - Greenacres could close at any time outside planning control.

3 - The new sports centre, with the exception of indoor tennis and indoor swimming, will be a significant improvement over Greenacres.

6.1.8. In conclusion, given the apparent equivocation of Sport England on this matter, officers view the lack of one additional squash court as being a minor objection to the application as a whole, and indeed, certainly not one that could possibly sustain a reason for rejection.

6.1.9. To conclude as a whole on the three principal tests in the NPPF noted above, officers consider there is no basis for rejecting the application having regard to paragraphs 24, 26 and 74. Indeed, taking the overall advice in section 8 of the NPPF which promotes healthy communities, it is envisaged that not only will the application be an excellent opportunity for meeting between members of the local community, but also for the future community arranged around the Sandleford allocation in policy CS3 in the Core Strategy. It will also be an example of planning positively for future sports needs in the local community.

## 6.2. The Council's Core Strategy 2006 to 2026.

6.2.1. Policy **ADPP1** in the above, recognises that most development will be within or adjacent to settlements. Policy HSG1 in the saved Local Plan identifies Monks Lane to the north being

the defined boundary of the town. However, the red line access of the application site area does adjoin Monks Lane, and, in addition, to the west of the site lies Park House School, and to the north St Johns surgery and the Cloisters a care home. The rugby club building lies to the east with its associated car park, whilst to the south, in time, will be the new housing site for Sandleford Park. Accordingly, it is considered likely [without prejudice] that over time, when the defined settlement boundaries are revisited, the application site could be included. Even if not fairly substantive built form will be near the site. Accordingly ADPP1 is met. Policy **ADPP2** has already been considered above, in terms of replacement facilities. Policy **CS5** examines the need for future impacts to be mitigated by developer contributions. It is recognised that if the application proceeds, payments for local highways works will be required, given the significant increase in local traffic generation arising from the new sports centre. No public open space or library contributions are however sought in this instance. Policy **CS6** relating to affordable housing is relevant, insofar as the partner application 12/02884, has ramifications for the delivery of this scheme, in funding terms. Policy **CS11** corresponds to the future protection of town centre vitality. Whilst this relates principally to retail, leisure is a factor. Once again this issue has already been considered in the “NPPF section”. Policy **CS13** corresponds to highways issues. The highways officer is largely content with the existing access to be used onto Monks Lane, and the level of proposed car and cycle parking. In terms of the increased traffic generation, the facility will create an additional 27 vehicle movements in the morning peak hour [8am to 9am] and an additional 72 movements in the evening peak hour [5 - 6pm]. This equates to a 2.7% rise in movements on Monks Lane, in the morning, and slightly more in the evening peak. This is not considered so significant as to merit rejection of the application in highways terms, but it does merit a s 106 highways contribution of £127,000, which will assist in mitigating congestion on the roundabouts on the west and east ends of Monks Lane. Policy **CS14** relates to design of new buildings. This will be taken in more detail under the visual impact section. Policy **CS15** corresponds to sustainable construction. It is expected that should the application be approved, BREEAM excellent will apply via condition, to the new sports building. The applicants have submitted a satisfactory flood risk assessment so meeting the test of policy **CS16**, and the Council ecologist and Natural England have no objections under ecology/ biodiversity – policy **CS17**. The ancient woodland to the south is being adequately protected by the 15m buffer zone noted on the submitted plans, and no SSSI is being impacted. Policy **CS18** relates to the Districts green infrastructure [GI] which, inter alia, comprises sporting pitches as at Newbury Rugby Club. The application site is currently a little used practice rugby pitch, but still retains an attractive open quality, which is significant to the soft visual setting on the southern margins of the town. There is no doubt that it comprises GI, which policy CS18 seeks to conserve, save in exceptional circumstances. The Committee must make this judgement in determining this application. Officers consider the loss is acceptable, since the provision of the sports centre, with its associated open air sporting facilities [tennis courts and swimming pool] in itself constitute GI. This policy is accordingly satisfied, if the Committee is also satisfied that the overall visual impact arising from the new centre is acceptable. This is examined now.

### 6.3. Visual Impact.

- 6.3.1. Policy **CS19** seeks to ensure that the diversity and local distinctiveness [and hence attractive qualities] of the District’s landscape/ countryside is sufficiently conserved and where possible enhanced, via new development. Regard must be had to the area’s sensitivity to change, and ensuring that the new development is appropriate in terms of scale, and design, in relation to local settlement form and overall character.
- 6.3.2. What is proposed on the application site is a major scheme. The sports centre itself is 2 storey, and will be 11.2m in height, 42m in width, and over 50m in length. This is substantial. In addition, it is proposed to have enclosed tennis courts [as currently at Greenacres] which will involve a domed structure some 9m high, 34.5m wide and just over 60m in length. Whilst it is understood this will have a quasi translucent appearance, it will

undoubtedly still be a significant visual structure, and so will inevitably, in conjunction with the associated sports centre, car parking and floodlighting, have a substantial localised visual impact. However, there are a number of factors which assist in reducing this potential impact. Firstly, from the closest public vantage point, being Monks Lane, there are two intervening buildings which will screen the new build, assisted by their higher elevation. Namely, St Johns surgery and the Cloisters Nursing Home. Secondly the buildings will have a comfortable visual backdrop of Barn Copse to the south which again will screen the new build very well. Thirdly, built form already exists to the south west and east of the application site, so the new centre will not sit in an open setting. Fourthly, it is inevitable that over time once the Sandleford allocation is initiated, the overall character of the vicinity will alter irrevocably, at least to a degree. Given all these issues, it is officers balanced view that, whilst the new scheme will have a localised visual impact, its wider impact will be well contained, and there will be little if any impact on wider landscape character. On balance therefore, on this issue and policy CS19, it is considered the scheme will be acceptable, particularly taking into account the wider community advantages arising from the sports centre.

#### 6.4. Other issues.

- 6.4.1. The above agenda report sets out all the relevant planning issues, in regards to extant Development Plan policy, highways and visual impact issues. This section sets out the officers' response to a number of remaining "problems" highlighted by objectors' letters. One letter has been received specifically on behalf of the Priory Group who operate the Cloisters to the north of the application site, very recently built out and occupied. Indeed it was the present case officer to this application who dealt with that proposal. Concerns have been raised about potential amenity impact from noise / disturbance and floodlighting. This appears to be rather poorly based, given the good separation between the Cloisters and the new development [over 70m] with intervening mini rugby pitches remaining, and the fact that Monks Lane is a busy road far closer to the Cloisters. Indeed there is already noise and disturbance from the very busy St Johns Surgery close by, in addition. It is accordingly not considered that this is any basis for an objection. Policy CS14 in the Core Strategy is met.
- 6.4.2. Secondly, a range of objectors are concerned about the possible **time lapse** between the closure of Greenacres and the opening of the new centre. This is a relevant planning issue, given the fact that the officer recommendation to approve is based upon a suitable replacement for Greenacres. In an ideal situation, there would be no time lapse at all. However, officers consider this to be technically/legally and financially extremely difficult if not impossible to deliver, given the number of parties involved [at least four, namely the Rugby Club, Stax Leisure, Bloor Homes, and the owners of Greenacres]. Whilst this is in some ways unfortunate, the fact that must still be borne in mind is that Greenacres can still close at any time, outside planning control. If a reasonable timing mechanism is put in place, via a s106 obligation, linking the timing of a build contract for the new sports centre being let, with the demolition of Greenacres, this can be the "best" that the Authority can seek. Members need to bear in mind the forward funding by Bloor Homes for the Stax site [land purchase etc] and the advice in para 205 in the NPPF, which states Councils should be sufficiently flexible to prevent planned development from being stalled. It is anticipated that the worst case scenario is a maximum of one year between the closure of Greenacres, and the opening of the new centre. The applicants have made it clear that if this can be expedited it will be, since it is clear that the shorter the time lapse, the better this is commercially. At present, the applicants are proposing that the Greenacre Centre be kept open for a period of one year from the date of the agreement, which will be when both planning permissions are granted. However, if a period of 3 years is granted for a start on site, this will be of little help. Accordingly, in this unusual circumstance, officers are recommending that the planning permission be granted on the Monks Lane site with a time period of just one year.

6.4.3. For further clarity, the submitted viability assessment on application 12/02884, allows for a financial “contribution” by the applicant [Bloor Homes] in order that the Greenacres sports centre remain open for one further year, in what are apparently poor trading conditions.

## 7 Conclusion

On the one hand, there are notable objections to the development to be determined. These are as follows.

- 1 - It will entail the loss of Greenacres, a much valued local facility.
- 2 - It will mean the “loss” of one squash court in terms of pure replacement provision.
- 3 - The centre will undoubtedly create some localised visual impact, and a degree of noise and light pollution, plus some increased traffic generation onto Monks Lane.
- 4 - It will involve the loss of some local green space.
- 5 - Its location out of settlement is not ideal in pure accessibility/ sustainability terms.
- 6 - Some minor exceptions to policy will be required to be made, if it is to be approved. However, it is noted that the application does NOT comprise a departure from identified planning policy.
- 7 - By definition, since it is linked to application 12/02884, it will involve the “loss” of 12 affordable housing units elsewhere in the town.

On the other hand, there are a range of demonstrable benefits arising:

- 1 - The creation of modern new sports centre, with associated infrastructure. This will significantly enhance sports centre facilities to the south of Newbury.
- 2 - The location in a highly accessible location, where future population growth is all but “guaranteed”
- 3 - The creation of 40 new homes on a site nearby ie Greenacres.
- 4 - The forward funding of the Rugby Club, which will improve its sports pitch provision, via the s106 obligation. This will be most valuable to the town in future years.

In conclusion, given the strong reasons to support the proposal, the recommendation to support the application is fully justified, in the views of officers.

## 8. Full Recommendation

**The Head of Planning and Countryside be authorised to GRANT planning permission, subject to the first completion of the required s 106 planning obligation, whose heads of terms are set out below.**

- 1 - The linkage of the demolition of Greenacres as noted under application 12/02884, with the implementation of the new sports centre. The completion of the new centre within a maximum of one year from that demolition date.
- 2 - The required funding for highway improvements, as noted in the agenda report. [£127,000]
- 3 - The implementation on an agreed timescale of the new rugby club sports field provision on site.

If for any reason the required s 106 obligation is not completed by the end of 2014, the application, if expedient, be refused for the following reason.

“Notwithstanding the applicants willingness to do so, the required s106 obligation has not been entered into, which would mitigate the highways impact from the new sports centre, and provide a means of ensuring the implementation of the new centre, plus the new rugby club sports pitches as replacement facilities. Accordingly, the application is contrary to the advice in para 74 of the NPPF of 2012, policies CS5 and 13 in the West Berkshire Core Strategy 2006 to 2026, and the advice in Delivering Investment from Sustainable Development adopted June 2013. It is accordingly unacceptable”.

## CONDITIONS

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

Reason: To enable the Local Planning Authority to review the desirability of the development against the advice in the DMPO of 2010, and the unusual context of the application site, being linked to the Greenacre site in the town.

2. No development shall commence until samples of the materials to be used in the proposed development have been submitted to and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the submission of samples of glass, plastic and mortar materials. Thereafter the materials used in the development shall be in accordance with the approved samples.

Reason: In the interests of visual amenity in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

3. 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 and the development shall be carried out in accordance with the approved levels.

Reason: To ensure a satisfactory relationship between the proposed building and the adjacent land in accordance with Policy ADPP2 of the West Berkshire Core Strategy 2006 to 2026.

4. The new sports centre building 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).

5. No development or other operations shall commence on site until a detailed scheme of landscaping for the site is 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 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.

6. No development (including site clearance and any other preparatory works) shall commence on site until a scheme for the protection of trees to be retained is submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with B.S.5837:2012. Such fencing shall be erected prior to any development works taking place and at least 2 working days notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Note: The protective fencing should be as specified at Chapter 6 and detailed in figure 2 of B.S.5837:2012.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Policy CS18 of West Berkshire Core Strategy 2006 to 2026.

7. No development shall commence until the applicant has submitted full details of the fire hydrants to be provided on the application site. The approved scheme shall then be implemented as agreed.

Reason: To ensure public safety is protected, in accord with the advice in the NPPF of 2012.

8. No floodlighting or other form of external lighting scheme shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting, which is so installed, shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance that does not change its details.

Reason: In the interests of visual amenity and/or highway safety. In accord with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

9. No development shall commence until full details of the following shall be submitted to the Local Planning Authority.

- (a) Written details concerning any proposed air handling plant associated with the development including;
  - (i) the proposed number and location of such plant as well as the manufacturer's information and specifications.
  - (ii) The acoustic specification of the plant including general sound levels and frequency analysis under conditions likely to be experienced in practice.
  - (iii) The intended operating times.
- (b) calculations showing the likely impact of noise from the development;
- (c) A scheme of works or such other steps as may be necessary to minimise the effects of noise from the development;

The development shall not commence until written approval of a scheme under the above has been given by the Local Planning Authority.

Reason: To ensure public amenity is respected, in accord with policy OVS6 in the West Berkshire District Local Plan 1991 to 2006 [saved 2007].

10 No development shall commence until details of the method of discharge of water from the two swimming pools, and the method of intercepting fats, oil and grease, from the building and the

car parks, have been submitted to, and approved in writing, by the Council. The development shall then be built out in strict accord with the details so approved.

Reason: To ensure no pollution of the local water system, in accord with the advice in the NPPF.

11 The mitigation measures described in paragraphs 6.3 - 6.22 of the Phase II Reptile and Phase II Bat Survey Report by PV Ecology and dated October 2013 will be implemented in full. No development shall commence on site until detailed Habitat Enhancement and Management, Landscape, and Construction Management Plans have been submitted to the Local Planning Authority for prior written approval. Before the first use of the Sports Centre hereby permitted, a report from a qualified ecologist will be submitted to the local planning authority which confirms that the approved mitigation measures have been implemented in full.

Reason: To ensure the protection of species protected by law and to accord with Policy CS17 (Biodiversity and Geodiversity) of the West Berkshire Core Strategy 2006 to 2026.

DC

13/02581/COMIND

Newbury Rugby Football Club Ltd, Monks Lane, Newbury



Map Centre Coordinates : 446308.07 , 164921.91

Scale : 1:10000

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One Inch = 254 Metres

Metres 200 400 600

Organisation	West Berkshire Council
Department	Environment
Comments	
Date	10 March 2014
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 13/00713  Pins Ref 2209783	3 Wendan Road, Newbury Mrs A Fox-Jones	Section 73A: Variation of Condition 2 of approved plans: amended dormer design.	Delegated Refusal	Dismissed 6.2.14
COLD ASH 13/00799  Pins Ref 2206942	Sylvan House, Fishers Lane, Cold Ash C Concept Ltd	Proposed code level 6 eco house sustainable with associated parking and amenity	Delegated Refusal	Dismissed 6.2.14
COLD ASH 13/0022 and 11/00391 Enf  Pins Ref 2198259 and 2202731	The Spotted Dog, Gladstone Lane, Cold Ash Piero Pagliaroli	Permanent siting of Marquee (retrospective)	Delegated Refusal	Dismissed 25.2.14

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### **Main Issue**

The impact of the marquee on the character and appearance of the area and on The Spotted Dog.

### **Reasons**

The Spotted Dog is an attractive brick built pub with a variety of tiled roofs and different rooflines and extensions creating a pleasing overall effect. The marquee by way of contrast is a large, monolithic rectangle attached to the side of the pub, with no apparent relationship to any of its parts. It is clearly out of scale and the solid whiteness of the colour stands out harmfully against the muted brick tones of the pub itself. The marquee also has the potential to become weathered and shabby over time, as apparently had happened to an older marquee before it was replaced by the current one.

The marquee is clearly visible from Gladstone Lane as one walks up the hill towards the pub, from where it stands out as intrusive and harmful. It is difficult to get a sense of the village as a whole due to the steep roads and thick tree and hedge belts which create enclosed spaces. However, this tends to increase the impact on the marquee on the discrete area it occupies.

The Inspector accepted that it is used by the local community and that the Framework supports rural economic growth. However this is not at the expense of the quality or character of an area and the benefits mentioned do not outweigh the harm he identified.

Consequently, the marquee is contrary to CS14 and CS19 of West Berkshire Local Plan (2007) and the ground (a) appeal fails and the planning appeal is refused.

### **Decisions**

#### *Appeal A – 2202731*

The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### *Appeal B - 2198250*

The appeal is dismissed.

DC

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NEWBURY 13/00713 Pins Ref 2209783	3 Wenden Rd, Newbury Mrs A Fox-Jones	Section 73A: Variation of Condition 2 of approved plans: amended dormer design.	Delegated Refusal	Dismissed 6.2.14
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### **Preliminary Matters**

The application, the subject of the appeal, concerns extensions that were constructed following a previous grant of planning permission. The roof extension was not built in accordance with the approved plans and the current proposal seeks to amend a condition specifying these by substituting revised drawings.

However, the purpose of such a condition is to give an opportunity to seek minor amendments to an approved scheme before it is carried out. Given that the development has already taken place, the Inspector treated the appeal as being concerned with a refusal of planning permission, as shown in the heading above, rather than as indicated on the appeal and application forms.

He also considered that the development can most appropriately be described as given in the heading above. Despite the project having already been completed the Inspector, nevertheless, considered the appeal strictly on its own planning merits.

### **Main Issue**

The main issue in the consideration of this appeal is the effect on the character and appearance of the host dwelling, street scene and locality.

### **Reasons**

The appeal concerns a detached property where the extended main roof has a flat part on top but with slopes around the outside that form the dominant aspect when seen from ground level. The new dormer additions are all in relatively close proximity to the top of the main roof, as well as being flat roofed and significantly wider than their height. As a result they appear unacceptably bulky and box-like, jarring with the sloping character of the part of the roof in which they are set. The side additions also have glazed areas significantly greater than those of the single openings in the walls below.

In consequence, although the materials used are acceptable, the dormer additions are poorly related to the host dwelling appearing incongruous and overly dominant. Because of their pitched roofs the previously approved dormer additions would have had a different form while also being noticeably less bulky and, therefore, lend no significant support to the appeal.

The design of buildings in the locality varies and there are dormer extensions found elsewhere. However, the latter features tend to be of a noticeably lesser bulk and scale, while also generally being more appropriately proportioned with a greater ratio of height to width, than those this appeal is concerned with. This is the case even where they have a flat roof, as with those on the relatively large building visible from the rear garden at the appeal site. Moreover, the dormers to the sides at No. 3 Wenden Road are readily seen from the street, while that at the rear is visible from other properties, so that their disharmonious presence is apparent in the vicinity.

As a result it is concluded that the new dormer additions have harmed the character and appearance of the host dwelling and locality, as well as the street scene. The development has failed to achieve the high quality of design sought by West Berkshire Local Plan Core Strategy (2006-2026), July 2012, Policy CS 14. The unacceptably dominant nature of the additions is contrary to the general thrust of the Council's Supplementary Planning Guidance, House Extensions, July 2004, regarding such development. There is also conflict with the core planning principle of the National Planning Policy Framework that planning should always seek to secure high quality design.

The absence of any objections from interested parties is acknowledged but this does not, in itself, confer acceptability. The Appellant suggests that the approved scheme was deficient in a number of respects such as the stability of the building and cill heights. Nevertheless, such matters have been addressed at the undue expense of the quality of the environment in this instance. Because of the harm that has resulted and taking account of all other matters raised, it is concluded that there are no considerations sufficient to justify permitting the development and the appeal fails.

DC

COLD ASH 13/00799  Pins Ref 2206942	Sylvan House, Fishers Lane, Cold Ash C Concept Ltd	Proposed code level 6 eco house sustainable with associated parking and amenity	Delegated Refusal	Dismissed 6.2.14
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### **Main Issue**

The main issue in this case is the effect of the proposed development on the character and appearance of the surrounding area.

### **Reasons**

The appeal site is in an area of low density residential development near the edge of the settlement of Cold Ash. The area is characterised by large dwellings in spacious, well landscaped plots and set back from the road. Trees and roadside hedges dominate the built form, giving the lane a semi-rural quality.

Relevant policy guidance is contained within the document 'Quality Design - West Berkshire Supplementary Planning Document (SPD) Part 2 – Residential Development' (adopted 19 June 2006). This SPD seeks, amongst other things, a reduction in density on the outer edge of development which is close to the edge of a settlement, to ensure that it respects the interface between open countryside and the built form.

The appellant argues that the proposal addresses the concerns of the Inspector who dismissed an earlier appeal on the site (Ref. APP/W0340/A/12/2186274). The design of the current proposal is materially different from that submitted previously; the dwelling would have a smaller footprint, lower overall height and significantly reduced scale and bulk. The massing would be broken up by presenting a narrow two storey gable towards the road, with single storey lean-to wings on either side. Site levels would be reduced to achieve a slab level 1 metre lower than with the previous scheme.

These factors all weigh in favour of the proposal. The proposed design is creative and the dwelling would add to the varied mix of architectural styles along Fishers Lane. The fact that the dwelling would be built to Level 6 of the Code for Sustainable Homes standard is also a benefit.

However, nothing alters the fact that the site is small in relation to others in the immediate locality. The proposed dwelling would fill the majority of the width of the plot with only limited space on either side. This would contribute towards a cramped appearance which would be at odds with the prevailing character of dwellings in spacious plots.

The Inspector did not share the appellant's view that the development would be secluded. The removal of existing vegetation along the road frontage has opened up the site to views from the lane and replacement hedge planting would take several years to mature sufficiently to screen the site. Even then, there would be views of the dwelling through the driveway entrance.

The dwelling would be sited nearer to the road than the properties on either side, and it would be closer than the previous proposal. This would increase the dwelling's prominence in views through the entrance, and would counteract the benefits gained from reducing the height, scale and bulk, and lowering the slab level.

The Inspector noted from his site inspection that the required visibility splays would be achievable now that vegetation on the frontage of the site has been removed. New hedge planting would be required along the rear edge of the eastern splay. However, deep and lengthy visibility splays for individual accesses are not commonplace in Fishers Lane. Although the new hedging is shown on

the plans as being closer to the road than under the previous proposal, the tapered splay would still appear rather alien.

To conclude on the main issue, the development would be cramped and it would fail to respect the character and appearance of the area. It would not constitute sympathetic infill, as sought by the Cold Ash and Ashmore Green Village Design Statement, and the small plot size would not be compatible with the objective set out in the SPD to reduce densities towards the edge of settlements.

Whilst the principle of residential development within the settlement boundary is acceptable under Policy HSG.1 of the adopted West Berkshire District Local Plan 1991-2006, the proposal would conflict with the detailed criteria of Policy HSG.1 which seek to ensure that new development has regard to local context. The proposal would also be contrary to Policy CS14 of the adopted West Berkshire Core Strategy (2006-2026) which seeks high quality and sustainable design that respects and enhances the character and appearance of the area.

### **Other Matters**

The Council considers that financial contributions are required to mitigate the impact of the proposed development on local infrastructure, services and amenities. Although the appellant has suggested that a unilateral undertaking will be prepared, no planning obligation was before him. However, since the Inspector was dismissing the appeal for other reasons, the decision does not turn on this matter. He therefore did not need to consider whether the obligation would meet the tests of regulation 122 of the Community Infrastructure Levy (CIL) 3 Regulations 2010 and paragraph 204 of the National Planning Policy Framework ("The Framework").

The Framework is cited in support of the proposal, and in particular its presumption in favour of sustainable development. There are three dimensions to sustainability: economic, social and environmental. The proposal would undoubtedly bring some economic benefits during construction and social benefits through the provision of an additional dwelling. However, these positives would be outweighed by the harm which the development would cause to the local environment. The benefits of providing a dwelling to Level 6 of the Code for Sustainable Homes are not so exceptional as to outweigh this harm.

The appellant makes reference to a recent planning permission for extensions and garaging at Pump House. Details of this development were not before the Inspector and therefore it was difficult to determine whether there are any parallels. In any event, proposals must be considered on their own merits.

The Inspector took into account the concerns amongst local residents regarding drainage and run-off issues. However, there is no technical evidence to support the objections and both the Council and the Environment Agency are satisfied with the foul and surface water drainage arrangements.

### **Conclusion**

For the reasons given above, and having regard to all other matters raised, the Inspector concluded that the appeal should be dismissed.

DC