

# Notice of Meeting



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## Western Area Planning Committee Wednesday 30 August 2017 at 6.30pm in the 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.

### Further information for members of the public

**Note:** The Council broadcasts some of its meetings on the internet, known as webcasting. If this meeting is webcasted, please note that any speakers addressing this meeting could be filmed. If you are speaking at a meeting and do not wish to be filmed, please notify the Chairman before the meeting takes place. Please note however that you will be audio-recorded.

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 Rachel Craggs on (01635) 519441 Email: [rachel.craggs@westberks.gov.uk](mailto:rachel.craggs@westberks.gov.uk)

Date of despatch of Agenda: Monday, 21 August 2017



**Agenda - Western Area Planning Committee to be held on Wednesday, 30 August 2017**  
(continued)

**To:** Councillors Howard Bairstow, Jeff Beck, Dennis Benneyworth, Paul Bryant (Vice-Chairman), Hilary Cole, Billy Drummond, Adrian Edwards, Paul Hower, Clive Hooker (Chairman), Anthony Pick, Garth Simpson and Virginia von Celsing

**Substitutes:** Councillors Jeanette Clifford, James Fredrickson and Mike Johnston

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# Agenda

## Part I

Page No.

1. **Apologies**  
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 7 - 24  
To approve as a correct record the Minutes of the meeting of this Committee held on 9 August 2017.
3. **Declarations of Interest**  
To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable 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: 17/01808/OUTD, Garden land at No. 5 Normay Rise, Newbury, Berkshire** 25 - 42

**Proposal:** Outline application for the erection of dwelling with integral garage. Matters to be considered: Access.

**Location:** Garden land at No. 5 Normay Rise, Newbury, Berkshire

**Applicant:** Mr and Mrs Power

**Recommendation:** **The Head of Development and Planning be authorised to GRANT planning permission subject to Conditions.**



**Agenda - Western Area Planning Committee to be held on Wednesday, 30 August 2017**  
(continued)

- (2) **Application No. and Parish: 17/00939/FUL The Barn Highwood Farm, Long Lane, Shaw, Newbury, Berkshire** 43 - 56
- Proposal:** Change of use of half a section of orchard land to garden use. Erection of Oak framed car port and turning area
- Location:** The Barn Highwood Farm, Long Lane, Shaw, Newbury, Berkshire
- Applicant:** Mr Bjian and Marianne Mohandes
- Recommendation:** **The Head of Development and Planning be authorise to REFUSE planning permission**

**Items for Information**

5. **Appeal Decisions relating to Western Area Planning Committee** 57 - 62  
*Purpose: To inform Members of the results of recent appeal decisions relating to the Western Area Planning Committee.*

**Background Papers**

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

Andy Day  
Head of Strategic Support

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



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# Agenda Item 2.

## DRAFT

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

### WESTERN AREA PLANNING COMMITTEE

#### MINUTES OF THE MEETING HELD ON WEDNESDAY, 9 AUGUST 2017

**Councillors Present:** Howard Bairstow, Jeff Beck, Hilary Cole, James Cole (Substitute) (In place of Adrian Edwards), Billy Drummond, Paul Hewer, Clive Hooker (Chairman), Anthony Pick, Garth Simpson and Virginia von Celsing

**Also Present:** Michael Butler (Principal Planning Officer), Derek Carnegie (Team Leader - Development Control), Rachel Craggs (Principal Policy Officer (Equalities)), Paul Goddard (Team Leader - Highways Development Control), Jenny Legge (Principal Policy Officer) and Shiraz Sheikh (Principal Solicitor)

**Apologies for inability to attend the meeting:** Councillor Dennis Benneyworth, Councillor Paul Bryant and Councillor Adrian Edwards

#### PART I

##### 15. Minutes

The Minutes of the meeting held on 19 July 2017 were approved as a true and correct record and signed by the Chairman.

##### 16. Declarations of Interest

Councillors Jeff Beck, Billy Drummond and Anthony Pick declared an interest in Agenda Item 4(1), but reported that, as their interests were personal or an other registrable interest, but not a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

Councillor Clive Hooker declared an interest in Agenda Item 4(2), but reported that, as his interest was personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

Councillor Paul Hewer declared an interest in Agenda Item 4(1), and reported that, as his interest was an disclosable pecuniary interest or a other registrable interest, he would be leaving the meeting during the course of consideration of the matter.

##### 17. Schedule of Planning Applications

###### (1) Application No. and Parish: 17/01096/OUTMAJ, Land to the north of Pinchington Lane, Newbury

*(Councillors Jeff Beck and Anthony Pick declared a personal interest in Agenda Item 4(1) by virtue of the fact that they were members of Newbury Town Council and its Planning and Highways Committee. 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 Billy Drummond declared a personal interest in Agenda Item 4(1) by virtue of the fact that he was a member of Greenham Parish Council. As his interest was personal*

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*and not prejudicial or a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.)*

*(Councillor Paul Hewer declared a personal and prejudicial interest in Agenda Item 4(1) by virtue of the fact that he was employed by a Social Housing Provider. As his interest was personal and prejudicial and a disclosable pecuniary interest, he would be leaving the meeting during the course of consideration of the matter and would take no part in the debate or voting on the matter.)*

*In accordance with his declaration of interest Councillor Hewer left the meeting at 6.35pm.*

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 17/01096/OUTMAJ in respect of land to the north of Pinchington Lane, Greenham.
2. In accordance with the Council's Constitution, Ms Lucy Crofts, objector, and Ms Laura Cox (Pro Vision), Mr Simon Cook (Hydrock), Mr Peter Shepherd (BSG Ecology), Mr John Birch (Glanville), agent, addressed the Committee on this application.
3. Michael Butler introduced the report to Members, which took account of all the relevant policy considerations and other material considerations. In conclusion the report detailed that the proposal was acceptable and a conditional approval was justifiable. Officers consequently recommended the Committee grant planning permission.
4. Ms Crofts in addressing the Committee raised the following points:
  - She lived in Water Lane and had objected to the previous application.
  - She wished to suggest the Committee refuse the application as it was acting in opposition to the Housing Site Allocation Development Plan Document (HSADPD), which stated that these sites had a master-plan. She felt that there was no evidence of this or a plan that dealt with the cumulative traffic and ecological protection of the area, and that development was happening piece-meal.
  - She felt that there would be road safety issues where cycle and footpaths emerged onto Greenham Road, especially for children travelling to school.
  - She explained that the accumulated increase in traffic from all the four sites would exceed the 3% allowable maximum.
  - The HSADPD did not suggest a need for a Greenham Road access and she saw no reason to have one.
  - She was heartened that Councillors had been listening and that the covenant would remain in place on the public open-space, however she was unsure of its credibility, as the space was still being developed. She would like to see the Landowner working with the Fields in Trust organisation on a Deed of Dedication, which she felt would protect the land from further development. However, she had been advised that this was not an acceptable option as it would prevent the land being built on in future, but that was the point.
  - She asserted that the Council were cherry-picking from the HSADPD for example, the need for a masterplan and a diversity plan were no longer considered necessary however, they were part of the policy.

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- Although she felt that land protection was improving, the lack of a master-plan was shocking.
5. Councillor Jeff Beck asked where Ms Crofts potentially saw a need for a pedestrian crossing. She confirmed that it would be near to where the footpaths met Greenham Road. She felt some safety measures were needed.
  6. Councillor Beck questioned whether Ms Crofts knew the potential footfall for the area. Ms Crofts answered that she did not know, but there were a large number of housing units being proposed and people would want to access the public open-space.
  7. Paul Goddard noted that as a Highways Officer, he was content with the layout and the provision of access. He asserted that Officers had considered traffic from both sites and that there was a comprehensive package of junction improvements on the A339 that was being developed for these sites, and sites like Sandford. There was already a pedestrian island refuge to the south of the site and a signal crossing north of the Willows School. He observed that Officers had to consider where people were walking to and if they were likely to need to cross the road, when walking to and from the development.
  8. Ms Cox in addressing the Committee raised the following points:
    - She concurred with Michael Butler's introduction that this was practically an identical application as had been approved by the Committee in January 2017 and that this site appeared in the HSADPD, adopted in May 2017.
    - The proposal had been shaped by extensive consultation and the site had been monitored over the last 15 years.
    - There had been no material change in circumstances. The site contributed to the Council's five year land supply and had been used in the appeal decision for the Siege Cross application.
    - The proposal had the full support of Officers, the Environment Agency and the Wildlife Trust; and gave long term protection to the land through the covenant, policy and a habitat and environment management plan.
    - This development would turn a wasteland into an attractive area and was the subject of a comprehensive master-plan which had been worked on since 2009, to manage a former land-fill site.
    - The site would have easy access to the town centre, employment, services, sports facilities, education and public open-spaces.
    - Following the comment from the objector, the applicant would agree to the provision of an additional pedestrian crossing over Greenham Road, as part of the Section 278 agreement.
  9. Councillor Anthony Pick asked for clarification on the source of income for paying the management company that would maintain the public space in perpetuity and if a company had been nominated.
  10. Ms Cox explained that the applicant had met with solicitors and the Council's solicitors to discuss arrangements, but had not yet identified a specific company. She expected that residents would be asked to contribute to the cost of the management company and that Rivar would provide a bond, if necessary. These discussions were ongoing.
  11. Councillor Billy Drummond was concerned that the cost of decontaminating the land, might lead to the 40% affordable home provision becoming unviable. He wondered if

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the existing site at the retail park, where decontamination had already been carried out, would give the applicant some idea of cost.

12. The Chairman explained that until the outline application had been approved, the applicant could not carry out a land contamination survey and therefore discover the cost of the work to be carried out. It was a Catch 22 situation.
13. Councillor Billy Drummond, in addressing the Committee as Ward Member, raised the following points:
  - He thanked Ms Croft for her presentation and Greenham Parish Council for their support.
  - He was concerned about the traffic on Pinchington Lane and Greenham Road and would like to see further work on this, if the Committee were minded to approve the application.
  - He would like the covenant between the Council and Rivar retained.
  - He felt that the only good thing about the proposal was the high number of affordable homes it would provide.
  - He could not support the application.
14. Councillor Beck asked if Officers had been presented with the cost of decontamination and whether this would impact on the viability of the affordable units. Michael Butler explained that there was not a precise figure, as the detailed work would be completed for the Reserved Matters application. He informed the Committee that the quality of reclamation for residential properties was far higher and, therefore, more costly than that of the retail park. However, he believed it was the legitimate expectation of the applicant that they would provide 40% affordable housing on the site. It was also legitimate to include clauses in the Section 106 agreement that allowed for reconsideration of this provision, should costs become prohibitive.
15. Councillor Drummond requested that Legal Officers were involved in discussions relating to the management company costs. Councillor Beck felt that the management costs should be paid for by the social housing provider rather than the affordable home's tenants. Michael Butler explained that this was not a material planning matter, but would be part of the ongoing discussions with the applicant. He added that insurance bonds were common practice, for example one had been provided to cover the work at the railway bridge at the Newbury Racecourse development.
16. Councillor Virginia von Celsing asked if the covenant on the land was worth the paper it was written on and wondered what the value was of having a covenant on an open-space if it did not stop development.
17. Shiraz Sheikh explained that a covenant was a legally binding promise between parties. The deed could only be released upon agreement of all the parties.
18. Councillor Howard Bairstow asked if the area to the south had been a land-fill site. Michael Butler answered that it was the former Greenacres Leisure Centre site and therefore not part of the landfill site.
19. Councillor Drummond expressed concern over the possible light pollution from the site. Michael Butler recognised that lighting was an important factor for the elevated site and a condition had been prepared on page 38, point 15 of the agenda, which required the submission of a lighting design strategy.



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20. Councillor James Cole inquired if there was a master-plan for the four sites. Michael Butler confirmed that there was, however council policy could not control ownership of the land. If the developments were all part of the same application Officers would have more control over land management, but they were owned by different companies and therefore the council's level of control was limited.
21. Councillor Beck proposed that the Committee accept officer's recommendation, including the additional condition in the update report, to grant planning permission. Councillor Hilary Cole seconded the proposal.
22. Councillor Pick stated that he saw no reason to refuse. He noted that his was not the first time the management of an open-space for perpetuity had been discussed and he felt that this might be the time to co-ordinate a single approach to deter further debate on similar issues of funding. He also asked that officers monitor the need for road crossings, as this concern had been brought forward by a local resident with local knowledge. The Chairman confirmed this had been noted.
23. Councillor von Celsing asked if a Deed of Dedication, as suggested by Ms Crofts could be applied, as it was more substantial than a covenant. Shiraz Sheikh explained this would be discussed as part of the Section 106 negotiations.
24. Councillor James Cole inquired if the Highways Officer would include the additional crossing offered by Ms Cox. Paul Goddard noted that a further crossing had been offered by the applicants, which he was happy to look into and work with the developer to provide if physically possible to provide.
25. The Chairman invited the Committee to vote on the proposal of Councillor Beck, seconded by Councillor Cole, to accept the officer's recommendation to grant planning permission. At the vote the motion was carried. Councillor Drummond voted against the proposal.

**RESOLVED that** the Head of Development and Planning be authorised to **grant** planning permission subject to the first completion of a Section 106 obligation, with the following conditions:

### Conditions

#### Time limit

1. The development hereby permitted shall be begun on or before whichever is the later of the following dates:
  - 1 - 3 years from the date of this decision
  - 2 - the expiration of 2 years from the date of the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter approved.

Reason: to clarify the permission in accord with the advice in the DMPO of 2015.

#### Reserved matters

2. Full details of the external appearance of the housing, the scale, and the landscaping of the site, the ('reserved matters') shall be submitted to the Local Planning Authority not later than the expiration of 3 years beginning with the date of this permission, and shall be approved in writing by the Local Planning Authority before any building or other operations start on site. This condition shall apply irrespective of any indications as to the reserved matters which have been given in the submitted application and the development shall be carried out in strict accordance with the approved details.

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Reason: The application is not accompanied by sufficient details of the reserved matters to enable the Local Planning Authority to give proper consideration to those matters and such consideration is required to ensure that the development is in accordance with the advice in the DMPO of 2015.

### **Drainage strategy**

3. Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

Reason: The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community, in accord with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

### **Hours of working.**

4. 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:

7.30 am to 6.00 p.m. on Mondays to Fridays 8.30 am to 1.00 p.m. on Saturdays and NO work shall be carried out on Sundays or Bank Holidays.

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

### **Highways layout.**

5. The detailed layout of the site shall comply with the Local Planning Authority's standards in respect of road and footpath design and vehicle parking and turning provision. The road and footpath design should be to a standard that is adoptable as public highway. This condition shall apply notwithstanding any indications to these matters which have been given in the current application. All the required s278 and s38 agreements shall be completed prior to the first occupation of any dwelling.

Reason: In the interest of road safety and flow of traffic, and waste disposal. . 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).

### **CMS**

6. 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

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(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).

### **Removal of permitted development rights.**

7. Irrespective of the provisions of the current Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent revision), no additions or extensions to the dwellings shall be built or ancillary buildings or structures erected within the curtilages, unless permission in writing has been granted by the Local Planning Authority on an application made for the purpose.

Reason: To prevent the over-development of the site and to safeguard the amenities of neighbouring properties in accordance with the advice in the NPPF of 2012.

### **Fire hydrants**

8. No development shall commence until details of fire hydrant provision on the site has been submitted and agreed with the LPA. The development must be carried out in strict accord with this scheme prior to any dwelling occupation.

Reason: To protect public safety in accord with the advice in the NPPF of 2012.

### **Suds.**

9 No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority.

These details shall:

- a) Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the Non-Statutory Technical Standards for SuDS (March 2015), the SuDS Manual C753 (2015) and West Berkshire Council local standards;
- b) Include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels;
- d) Include a drainage strategy for surface water run-off from the site;
- e) 1. Include attenuation measures to retain rainfall run-off within the site and allow discharge from the site to an existing watercourse at no greater than Greenfield run-off rates;
- f) Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;
- g) Include run-off calculations, discharge rates, infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm +30% for climate change, plus a stress test for the affect of a 40% increase;
- i) Include flood water exceedance routes, both on and off site; Include flow routes such as low flow, overflow and exceedance routes;
- j) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil or groundwater;

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- k) Ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines.
- l) Ensure any permeable areas are constructed on a permeable sub-base material such as Type 3 or reduced fines Type 1 material as appropriate;
- m) Include details of how the SuDS measures will be maintained and managed after completion. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises;
- n) Include a management and maintenance plan for the lifetime of the development. This plan shall incorporate arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a residents' management company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime;
- p) Include a Contamination Risk Assessment for the soil and water environment (assessing the risk of contamination to groundwater, develop any control requirements and a remediation strategy);
- r) Apply for an Ordinary Watercourse Consent in case of surface water discharge into a watercourse (i.e stream, ditch etc)
- v) Attenuation storage measures must have a 300mm freeboard above maximum design water level. Surface conveyance features must have a 150mm freeboard above maximum design water level;
- w) Any design calculations should take into account an allowance of an additional 10% increase of paved areas over the lifetime of the development;
- x) Written confirmation is required from Thames Water of their acceptance of the discharge from the site into the surface water sewer and confirmation that the downstream sewer network has the capacity to take this flow;
- y) Details of catchments and flows discharging into and across the site and how these flows will be managed and routed through the development and where the flows exit the site both pre-development and post-development must be provided.

The above sustainable drainage measures shall be implemented in accordance with the approved details before the use hereby permitted is commenced/before the building(s) hereby permitted is/are occupied/before the dwelling(s) hereby permitted is/are occupied/in accordance with a timetable to be submitted and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. The sustainable drainage measures shall be maintained in the approved condition thereafter/The sustainable drainage measures shall be maintained and managed in accordance with the approved details thereafter.

Reason: To ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity and ensure future maintenance of the surface water drainage system can be, and is carried out in an appropriate and efficient manner. This condition is applied in accordance with the National Planning Policy Framework, Policy CS16 of the West Berkshire Core Strategy (2006-2026), and Part 4 of Supplementary Planning Document Quality Design (June 2006). A pre-condition is necessary because insufficient detailed information accompanies the application; sustainable drainage measures may require work to be undertaken throughout the construction phase and so it is necessary to approve these details before any development takes place.

### **Land contamination.**

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10. No development shall commence in each phase approved by this planning permission until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

all previous uses potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: The land was previously landfill. It will need to be remediated in accord with NPPF advice.

### **Verification.**

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

Reason: To ensure that contamination at the site is remediated, such that the site does not pose a threat to controlled waters in accord with the advice in the NPPF.

### **Remediation.**

12. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that any unexpected contamination encountered during the developments is suitably assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water in accord with the NPPF advice.

### **Piling.**

13. 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,

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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.

Reason: The site is on a former landfill, piling could lead to the contamination of groundwater, in accord with the advice in the NPPF.

### **Access.**

14. No development shall take place until details of the proposed accesses into the site have been submitted to and approved in writing by the Local Planning Authority. As a first development operation, the vehicular, pedestrian/cycle access and associated engineering operations shall be constructed in accordance with the approved drawings.

Reason: To ensure that the accesses into the site are constructed before the approved dwellings are occupied in the interest of highway safety. 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).

### **Lighting.**

15. Prior to occupation, a lighting design strategy for biodiversity shall be submitted to and approved in writing by the LPA. This is required to identify locations particularly sensitive to bats, indicate where the lighting is to be installed, and so installed in accord with the approved details.

Reason: to protect the local bat population in accord with the advice in the NPPF.

### **CEMP**

16. No development shall take place [including demolition] until a CEMP has been submitted to and approved in writing by the LPA. This shall include:-

- 1 - Risk assessment of potentially damaging activities to local ecology.
- 2 - The location and timing of sensitive works to avoid harm to local biodiversity.
- 3 - Times on site when an ecologist is needed.
- 4 - Use of protective fences.

This CEMP shall be adhered to in full during the construction process.

Reason: to conserve local biodiversity in accord with the advice in policy CS17 in the WBCS.

### **Landscape Management Plan.**

17. No development or other operations shall commence on site until a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for a minimum period of 20 years has been submitted to and approved in writing by the Local Planning Authority. The plan shall include any areas of existing landscaping including woodlands and also include any areas of proposed landscaping other than areas of private domestic gardens.

Reason: To ensure the long term management of existing and proposed landscaping in accordance with the objectives of the NPPF and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006 to 2026.

### **Arboricultural Method Statement**

18. 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

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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 the NPPF and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy

### **Watching Brief.**

19. 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.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the NPPF and Policies CS14, CS18 and CS19 of West Berkshire Core Strategy 2006-2026.

### **Tree works.**

20. 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. In addition, no trees, shrubs or hedges shown as being retained on tree survey 824-01.1 & 824-01.2 shall be pruned, cut back, felled, wilfully damaged or destroyed in any way without the prior consent of the local planning authority. Any trees, shrubs or hedges felled, removed or destroyed, or any that dies, become seriously damaged or diseased within five years from completion of the approved development, shall be replaced with the same species in the next planting season unless the Local Planning Authority gives written consent for any subsequent variation.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with the objectives of the NPPF and the policy CS18 in the WBCS of 2006 to 2026.

### **Height restriction.**

21. All the proposed dwellings hereby permitted, shall be of two storey height only [with NO rooms in the roof] apart from the proposed 3 storey building facing Pinchington Lane [Plots 116 to 157].

Reason: To ensure that the overall visual impact of the scheme is restrained given the plateau nature of the site having regard to the advice in policy CS14 in the West Berkshire Core Strategy of 2006 to 2026.

### **Floor levels**

22. No development shall commence until full details of the finished floor levels of the proposed new dwellings have been submitted to and approved in writing by the Council. The development shall then be carried out in strict accord with those approved levels.

Reason: To ensure the development has no undue visual impact having regard to policy CS19 in the WBCS of 2006 to 2026.

### **INFORMATIVE:**

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

## WESTERN AREA PLANNING COMMITTEE - 9 AUGUST 2017 - MINUTES

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.

2 The development hereby approved results in a requirement to make payments to the Council as part of the Community Infrastructure Levy (CIL) procedure. A Liability Notice setting out further details, and including the amount of CIL payable will be sent out separately from this Decision Notice. You are advised to read the Liability Notice and ensure that a Commencement Notice is submitted to the authority prior to the commencement of the development. Failure to submit the Commencement Notice will result in the loss of any exemptions claimed, and the loss of any right to pay by instalments, and additional costs to you in the form of surcharges. For further details see the website at [www.westberks.gov.uk/cil](http://www.westberks.gov.uk/cil)

3 This Decision Notice must be read in conjunction with the terms of a Legal Agreement of the \*\*\*\*. You are advised to ensure that you have all the necessary documents before development starts on site.

### **(2) Application No. and Parish: 17/01235/COMIND, Plantation Farmhouse, Beedon**

*(Councillor Clive Hooker declared a personal interest in Agenda Item 4(2) by virtue of the fact that he had been lobbied. As his interest was personal and not prejudicial or a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.)*

*Councillor Paul Hewer did not return to the meeting.*

Due to the declaration of interest of the Chairman and in the absence of the Vice-Chairman of the Western Area Planning Committee, Members **RESOLVED** that Councillor Hilary Cole be appointed as Chairman of this item only.

1. The Committee considered a report (Agenda Item 4(2)) concerning Planning Application 17/01235/COMIND in respect of the erection of a free range egg laying unit.
2. In accordance with the Council's Constitution, Dr Allen Careless (on behalf of residents of Beedon Common), objector, and Mr Roger Gent and Mr Ian Pick, applicant/agent, addressed the Committee on this application.
3. Derek Carnegie introduced the report to Members, which took account of all the relevant policy considerations and other material considerations. In conclusion the report detailed that the proposal was not acceptable and a conditional approval was not justifiable. Officers consequently recommended the Committee refuse planning permission. He further informed the Members that if they chose to approve planning permission, this application would be referred to the District Planning Committee, as it was against their own policy.
4. Councillor Hilary Cole noted that there was no request made by the Parish Council to speak on this item. It was regrettable that Beedon Parish Council had not commented on the application, as it would have helped the Committee make their decision. The Chairman felt strongly that some comment should have been forthcoming. If a member of the Parish Council had an interest in the application they should have left the room to allow for forthright and open discussion by the remaining members. There were mechanisms in place, as had occurred with Councillor Clive Hooker and Councillor Paul Hewer at this Committee, to allow for such an occasion.
5. Dr Careless in addressing the Committee raised the following points:



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- He was speaking on behalf of the residents of Beedon Common
  - The neighbouring cottages were 200-300 yards from the development; relatively close in such an open landscape.
  - He and his neighbours had chosen to live in the area because of the openness and they felt passionate about protecting it. They commended the officers for their report and excellent analysis.
  - They understood Roger Gent's wish to sustain his business, but felt this was the wrong development in the wrong place.
  - He felt the visual impact of such an industrial scale development was unacceptable and it had been sited in the worst place it could be within the farm.
  - Due to the topography of the land, the unit would be clearly visible for miles away on the public rights of way (PROW).
  - The emphasis on screening was inappropriate, as the block of trees in an open landscape would emphasise the incongruity of the unit, rather than disguise it.
  - In terms of economic benefit for the area, it was a highly mechanised unit and would require a maximum of two people to work in it. He felt this did not mitigate the harm.
  - He was concerned about the environmental impacts of noise, smell, light pollution and the attraction of vermin.
  - The increased volume of transportation of waste, feed and carcase disposal would cause upset.
6. Councillor Garth Simpson noted that the Heavy Goods Vehicles (HGVs) that serviced the existing sheds did not pass Dr Careless property. Dr Careless commented that there was a network of narrow lanes and poor signage, which already caused problems for large vehicles.
  7. Councillor Anthony Pick asked if there was an agreement with Environmental Health Officers that neighbours would not be disturbed. Dr Careless reflected that this was based on theoretical models and once it had been made reality, it would be too late.
  8. Councillor Howard Bairstow observed that the houses were surrounded by a lot of woodland and inquired if Dr Careless would still object to the application if Mr Gent were to use woodland to screen the unit. Dr Careless felt that the proposed plantation was not appropriate. He would not object to mixed woodland.
  9. Councillor Billy Drummond asked if the residents had had any trouble with the existing chickens in the mobile unit. Dr Careless noted that the mobile unit was on the other side of the farm.
  10. Councillor Clive Hooker asked if the objector considered his own house and those of his neighbours as appropriate in such an open landscape. Dr Careless felt they were attractive cottages, appropriate to the landscape.
  11. Mr Gent in addressing the Committee raised the following points:
    - Egg production had started in 1999, following the out break of Bovine Spongiform Encephalopathy (BSE). Production was increased in 2001 following the Foot and Mouth outbreak. There were still some cows on the farm, but he felt it was only a matter of time before they became infected with tuberculosis (TB). He considered free range egg production as the way forward, as it stood alone without subsidy. This had to be taken into consideration post Brexit.

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- He took great care to protect the countryside and had been involved in woodland schemes and environmental work. He felt that the Area of Outstanding Natural Beauty (AONB) had to change and evolve alongside the changes that farmers had to embrace.
  - Time and care had been taken in the preparation of the proposal. It offered employment and trees and hedgerows. They would grow the crops to feed their own hens.
  - Demand for free range eggs had risen by 7-8% and regulations now meant that all hens had to be free range by 2025. Currently, nationally 60% were cage free.
  - It was a large investment for the farm and there had to be a robust plan to ensure it would work.
12. Mr Pick in addressing the Committee raised the following points:
- There was only one reason that this application had to be considered by the Committee and that was because of the AONB. He felt that this impact could be mitigated, as with the two existing units, by tree planting around the building.
  - The units would be visible from the PROW, but he felt it was not unusual to see farm buildings in a farming landscape.
  - This was a relatively small project and was essential for the business to survive.
13. In answer to queries from Councillor Pick, Mr Gent replied that there would be one full time member of staff and a second person to help assist with egg collection. The shed was needed to provide a place for roosting, nesting, feeding and watering for the birds. He was legally bound to have a robust plan in place for vermin control. He used the new style of electric fencing that was wildlife friendly and would allow hedgehogs to pass through unharmed.
14. Councillor James Cole inquired how many extra lorries would be needed. Mr Gent explained that one extra lorry a week would be needed to bring food. The current pick up lorry was not used to its full capacity and therefore the additional eggs produced would just make it more efficient to use.
15. Councillor Cole further asked if Mr Gent would be prepared to plant larger trees than the three to four feet saplings proposed. Mr Gent agreed that he would. He had previously taken guidance from the Forestry Commission on what type of trees to plant and would do so again.
16. Councillor Simpson questioned the reasons for the location of the unit. Mr Gent explained that each building had to be allocated a fenced range for the birds. Due to the amount of PROW that cross the farm, if it was sited anywhere else the PROWS would run through the range.
17. Councillor Drummond recounted his experience as a chef and the dreadful smell of ammonia when sourcing eggs from a farm. Mr Gent explained that the older sheds got mucked out once a year. The new style shed was mucked out weekly. The farm had been producing eggs for 18 years and had never received a letter of complaint about a smell.
18. Councillor Drummond asked if Mr Gent was concerned about bird-flu. Mr Gent observed that he was caught between the devil and the deep blue sea, as he was required to have screening, but the trees attracted wild fowl that could bring the disease.

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19. Councillor James Cole wondered what Mr Gent felt about the criticism that a woodland would look more natural and whether he would consider making the plantation bigger. Mr Pick noted that in the surrounding area there were five or six coppices that looked very similar to the plantation proposed. The AONB officer had proposed clumps of trees, as would be found in parkland, but he felt this was not appropriate for the area. In comparison, in the fields adjacent to his property, there were huge concrete buildings with no screening at all.
20. Councillor Hilary Cole inquired if he had consulted with his neighbours. He said he had done so. She further asked if he had sought guidance from the Council's AONB officer or pre-application advice. Mr Gent stated that he had taken independent guidance.
21. Councillor Simpson asked if the landscape in the AONB had changed over the years Mr Gent had farmed there. Mr Gent observed that he had been replanting boundaries and trees, but that it was basically the same open and sporadically wooded landscape. If it hadn't been farmed, it would have been scrubland.
22. Councillor Clive Hooker in addressing the Committee as Ward Member raised the following points:
  - It was the officer's recommendation to refuse the application as it was in an AONB. The Committee can overturn this for exceptional circumstances.
  - This was a family run business; not a large enterprise. They have farmed the land for three generations and it would never be their intention to degrade the landscape.
  - The business had to expand to be competitive. Free range eggs were the future as battery farms were no longer allowed. This farm was contributing to our food supply.
  - There were two existing barns already operating in the AONB. Councillors would have observed how well hidden the current units were by screening. The roofline of the new unit would be below that of the existing units. The applicant had agreed to use larger trees, as suggested by Councillor Cole.
  - The unit they proposed to install was the smallest and most modern available, with little noise or odour escaping. We lived in modern fast moving times and we had to find ways to be more efficient.
  - Helping to ensure the survival of a rural business was not a unique position for this Committee, there was also the bakery in Chieveley.
  - 74% of the district was in an AONB. Any farm would need to expand their business and contribute to the economy.
23. Councillor Pick noted that there had been previous applications on the property and asked if they had been for similar proposals. He also queried whether, in the case of a farm, there was a conflict between economic development and preservation of the AONB. Derek Carnegie observed that a balance had to be struck within the council's policy.
24. Councillor Hooker sought clarification on whether a refusal could be construed as restrictive on the viability of the business and whether all businesses in the AONB should expect to be refused permission. Derek Carnegie replied that it may well have been there was a more appropriate location that would have, on balance, been acceptable.

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25. Councillor Virginia von Celsing relayed her experience of the site visit. On arrival, she could not believe that the development had been suggested for such a beautiful area however, she was impressed that she couldn't see the existing units and this had changed her mind. She felt that far worse applications on other sites had been allowed and that, on this site, the impact was acceptable. Following Brexit, subsidies were only guaranteed until 2022 and rural businesses had to diversify. She agreed with Councillor James Cole's idea for planting larger native trees. She appreciated the residents' views, but felt that life had to go on.
26. Councillor von Celsing proposed that the Committee grant planning permission, against the officer's recommendation. Councillor Simpson seconded the proposal.
27. Councillor Jeff Beck commented that it seemed that farmers were expected to retain the countryside for urban dwellers. He agreed with Councillor Hooker that farming was a business that we relied on for our food. The public had demanded free range eggs for ethical reasons and Mr Gent was going with the public trend. He suggested that conditions for approval could be drawn from the responses to the consultation, such as:
  - a) Chieveley Parish Council, page 44: to repair or meet the costs of repairs to footpath BEED 16/1 where the road crosses the path should it become damaged or in poor condition due to heavy goods vehicles using the access road
  - b) Rambler's, page 45: add warning signs to the BEED/16/1 footpath for the benefit of HGV drivers and pedestrians.
  - c) Point 6.2.14, page 55: retention and replacement of trees, where necessary
  - d) Point 6.6.2, page 57: that any trees, shrubs or hedges which die within five years are replaced within the next planting season
  - e) Point 6.7.2, page 57: add silt traps to the soakaways
  - f) Point 6.7.4, page: details of the collection, storage and spreading over the land of the waste and a construction method statement that dealt with pollution risks.
  - g) Update report, page 1: scheme to dispose of surface water submitted and approved by the local planning authority.
28. Councillor Simpson observed that he had, on first sight, agreed with officers but on listening to the arguments he had changed his mind and felt that the land should not be set in aspic. He recounted that 200 years ago trees had been cut down to feed the industrial revolution and that it was inevitable that farming practices had to change following Brexit. He felt that the AONB had a crisp and artificial look to it and that by using arboreal tricks the new unit would be well screened.
29. Councillor James Cole believed this was a very professional operation and agriculture was changing. In other areas, agricultural buildings were being converted in to residential houses. The land on this farm was not good enough for intensive crop farming and TB was a genuine problem for beef farmers. He felt it was an efficient use of the land.
30. The Chairman invited the Committee to vote on the proposal of Councillor von Celsing, seconded by Councillor Simpson, to grant planning permission, against the officer's recommendation at the vote the motion was carried unanimously.

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- 31. Councillor Hooker agreed with the Member's comments and noted that West Berkshire Council needed to address the ways it accommodated businesses in the AONB in its next Local Plan.
- 32. Councillor Pick felt that this type of application should be approached in the same way as that of a listed building, in that it had a strong economic base supporting the decision.
- 33. Councillor Hilary Cole explained that under national policy the AONB had been granted great protection; to the same degree as national parks. She had a large amount of experience, from sitting on the AONB Council of Partners Board and viewed the AONB as a man-made landscape. She subscribed to efforts to protect it however, there had to be an acknowledgement of the value of the working community.
- 34. Before the vote, Councillor Hilary Cole reiterated that if Members were minded to approve this application, against officer recommendation, it would be referred to the District Planning Committee. This committee was comprised of members of both the Eastern and Western Area Planning Committees.

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

**Conditions**

Potential planning conditions will be decided by the District Planning Committee, should they agree to grant planning permission.

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

*(Councillor Clive Hooker returned to the Chair at 8.35pm.)*

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

*(The meeting commenced at 6.30 pm and closed at 8.53 pm)*

**CHAIRMAN** .....

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

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# Agenda Item 4.(1)

Item No	Application No. and Parish	8/13 week date	Proposal, Location and Applicant
(1)	17/01808/OUTD Newbury Town Council	17 <sup>th</sup> August 2017 Extension of time to 31 <sup>st</sup> August 2017	Outline application for the erection of dwelling with integral garage. Matters to be considered: Access.  Garden land at No. 5 Normay Rise, Newbury, Berkshire  Mr and Mrs Power

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

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=17/01808/OUTD>

**Recommendation Summary:**        **The Head of Development and Planning be authorised to GRANT planning permission subject to Conditions.**

**Ward Member(s):**                     H Baristow  
   A Edwards

**Reason for Committee Determination:**        10 or more objections to a recommendation determination of Approval.

**Committee Site Visit:**                23<sup>rd</sup> August 2017

## Contact Officer Details

<b>Name:</b>	Mr. Matthew Shepherd
<b>Job Title:</b>	Planning Officer
<b>Tel No:</b>	(01635) 519111
<b>E-mail Address:</b>	Matthew.Shepherd@westberks.gov.uk

## 1. Site History

86/2241/ADD. Side Extension. Approved 23.07.1986.

## 2. Publicity of Application

Site Notice Expired: 31<sup>st</sup> July 2017

## 3. Consultations and Representations

**Newbury Town** No objection

**Council:**

**Highways:** Access

Access is the only matter for consideration on this outline application.

Visibility splays of 2.4 metres x 43 metres or clear to the junction with Normay Rise have been identified on the submitted plans. This is in accordance with Manual for Streets and is therefore acceptable.

The access must be surfaced with a bonded material for a minimum of 3 metres from the edge of the carriageway.

### Other Matters

In accordance with West Berkshire Council's car parking standards this site is located within Zone 2. The table below identifies that a 4-bed dwelling in this location should be provided with 2.5 driveway car parking spaces. Garages are no longer included as car parking spaces by West Berkshire Council due to the likelihood of them not being used as such. They can be used for cycle storage.

The driveway depicted can easily accommodate the required level of car parking.

### Recommendation

The highway recommendation is for conditional approval



**Tree Officer**

This is a back yard development of a single dwelling. There is a mature oak within the garden covered by a TPO and a Lawson cypress hedge along the southern section adjacent Willowmead Close. There are two other trees - a cherry and a maple in the northern section of the garden adjacent No.7 Normay Rise also covered by the TPO.

There has been a tree survey carried out by Nurture Green ref. NGTS280417 dated April 2017. The survey says the conifers are dying of what is believed to be honey fungus as the primary cause but there is no sign of this pathogen. The conifers have since died and the disease is moving easterly direction through the conifers. The oak also has a sparse canopy.

The plan shows the generic circle of the RPA (Root Protection Area) but does not take into account the road or the footpath, however this is only a tree survey a further impact assessment and method statement would need to be carried out. The proposed design of the driveway from Home Architecture shows it on the edge of the RPA.

There are no objections to the access to this property however the design of the access and the location of the garage is just on the edge of the RPA and does not allow any working space which should be approximately 2m.

**Recommendation**

There are no objections in principle to the point of access subject to further more detailed Arboricultural Impact Assessment and Method Statement and additional landscaping.

**Waste Management**

The application raises no concerns with regard to the storage and collection of refuse and recycling.

**Sustainable  
Drainage Team**

No response by 16/08/2017

**Correspondence:**

13 Objections registered to the application. Issues raised are summarised below:-

Concern raised in regards to the size of the site and whether the constrained site may lead to HMO's rather than family houses which could lead to parking issues.

Issue raised in regards to potential for increased numbers of proposed dwellings to lead to increased demand for on-street parking near a busy road and corner.

Objection raised to inappropriate development in the area due to the plot size, leading to complete overdevelopment that will not accommodate parking, amenity space and adequate dwelling size.

Questions raised over the amenity impact on No. 5 Normay Rise and a new dwelling's impact on the amenity of adjoining properties and gardens. Objection raised over the potential for overlooking caused by the site's levels, boundary treatments and potential siting of the property in relation to other neighbouring properties. The pitch of the roof is perceived to tower over neighbouring property No. 2 and block out some natural light. Objection raised to the potential proximity between windows on rear elevations, the plans according to the objector include 2 or 3 bedrooms to the rear of property which would overlook their rear amenity significantly.

The impact on No. 7 Normay Rise's rear amenity space, to which some is terraced and used regularly for enjoyment and relaxing is considered unacceptable by the objector.

Objection is raised to the access - it is considered too close to the junction and is considered to be dangerous by the objector to any person so walking/playing in the close. In addition objection has been stated that the increased car movements along Willowmead Close could increase accidents and damage to the road. Objection to the possible reduction of ambient light to No. 1 Willowmead Close and surrounding houses given the set down of No. 1 Willowmead Close.

NPPF states that developments on residential gardens cannot be included in their 5 year land supply. This according to objectors is used to prevent 'garden grabbing' as shown in this application. The application could lead to further attached to 'cash in on such developments'

The proposal degrades the street scene having a visual impact altering the character of the area and creating unnecessary additional noise and disturbance. The proposed development does not respect the spacing between properties which all benefit from generous gaps.

The impact the proposal will have on the TPO and that the Root Protection area has not been taken into account properly.

The design of the garage is not in accordance with adjacent garaging and that the proposals positioning is not in accordance with the streetscene. The garden size is not in accordance with adjacent properties and therefore is not in accordance with the street scene or layout.

Objection to the supposed disappearance of a tree in the garden area.

The site is sloping and the potential for additional land subsistence could lead to reversal of effectiveness of land drainage measures and possibly lead to foundation subsidence and local flooding.

Objection raised to the devaluing of surrounding area.

Objection raised as the area is part of the test route for DVLA examination which could be affected by the proposal.

Objection raised to the proposal due to a covenant on the land restricting development.

Objection to the lack of detail included in the application.

The dormer window to the garage would indicate a two storey garage but garages in Willowmead are all single storey and this would be out of character with the area.

Major concerns raised in regards to the stability of the land and the potential harm that foundations for a new property may bring. No details of the drainage on the site has been given or considered and a number of storm drains could be affected by the proposal.

Objection to the cutting back of the conifer hedge which would leave unsightly exposed tree trunks and the objector recommended these be entirely removed and replaced with something more appropriate. The impact the proposal will have on the TPO trees on site. Potential to increase the risk of flooding on the site.

One of the principles of the Newbury Town Council Design Statement is to "conserve the 'garden suburb' character of the area" (Andover Road) - building a house in a back garden does not conserve the character, and is a clear example of garden grabbing - again something that Newbury Town Council is against.

## 4. Policy Considerations

4.1. The planning system is plan-led, which means that planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The West Berkshire Development Plan comprises:

- The West Berkshire Core Strategy 2006-2026
- The West Berkshire District Local Plan 1991-2006 Saved Policies 2007
- The West Berkshire Proposed Housing Site Allocations (DPD)
- The South East Plan 2009 insofar as Policy NRM6 applies
- The Replacement Minerals Local Plan for Berkshire 2001
- The Waste Local Plan for Berkshire 1998
- Supplementary Planning Documents and Guidance

4.2. In this instance, the following policies of the Development Plan are considered relevant to the proposal.

- Area Delivery Plan Policy 1 Spatial Strategy
- Area Delivery Plan Policy 2 Newbury
- CS 1 Delivering New Homes and Retaining and Housing Stock
- CS 4 Housing Type and Mix
- CS 13 Transport
- CS 14 Design Principles
- CS 17 Biodiversity and Geodiversity
- CS 19 Historic Environment and Landscape Character

4.3. West Berkshire Housing Site Allocations Development Plan Document (November 2015)

- P 1 Residential Parking for New Development

4.4. The West Berkshire Core Strategy replaced a number of Planning Policies in the West Berkshire District Local Plan 1991-2006 Saved Policies 2007. However, the following policies remain in place until they are replaced by development plan documents and should be given due weight according to their degree of consistency with the National Planning Policy Framework.

- TRANS 1 Meeting the Transport Needs of New Development
- OVS.5 Environmental Nuisance and Pollution Control
- OVS.6 Noise Pollution

4.5. The Core Strategy was adopted after the introduction of the NPPF and provides an up to date framework for development planning in West Berkshire which is consolidated by the West Berkshire Housing Site Allocations (DPD) (November 2015). Supplementary Planning Guidance;

- Quality Design (June 2006)
- House Extensions (July 2004)
- Community Infrastructure Levy (CIL) Charging Schedule

#### 4.6. Other Material Considerations

- National Planning Policy Framework (March 2012)
- Planning Practice Guidance (March 2014)

### 5. Description of Development

- 5.1. The proposed development is an outline application for the erection of a dwelling with integral garage. Matters to be considered: Access. The development is proposed in garden land at No. 5 Normay Rise, Newbury which is a well established residential area of Newbury Town that is within Settlement Boundary as defined by West Berkshire Core Strategy Policies.
- 5.2. The site is free from many constraints, notably it is not within any Flood Zone, not within the AONB, or a Conservation Area.
- 5.3. This outline application has only Access as a matter to be considered. Issues regarding Appearance, Landscaping, Layout, and Scale are reserved and will follow in subsequent applications if approved. The case officer can therefore only consider the principle of a house in this location and the highways access.
- 5.4. It is noted a number of objections have been raised relating to other reserved matters, although sympathetic to objectors concerns the case officer can only consider principle and access at this time. The reserved matters may overcome objections, but these will be subject to additional submissions of which objectors will be able to comment.
- 5.5. The description of development was amended to give the applicant greater flexibility at reserved matters stage.

### 6. Consideration of the Proposal

- Principle of Development
- Highways Implications: Access
- The Impact on the Green Infrastructure of the Site
- The Impact on the Character and Appearance of the Area
- The Impact on Neighbouring Amenity
- Other Matters

### 7. Principle of Development

- 7.1. The National Planning Policy Framework (NPPF) makes clear that the starting point for all decision making is the development plan, and planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The current development plan for West Berkshire comprises the West Berkshire Core Strategy and the Saved Policies of the West Berkshire District Local Plan.
- 7.2. The NPPF is a material consideration in the planning process. It places sustainable development at the heart of the planning system and strongly emphasises the need to support sustainable economic growth. The first core planning principle set out in the NPPF is that planning should be genuinely plan led, providing a practical

framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.

- 7.3. The Core Strategy was adopted after the introduction of the NPPF and provides an up to date framework for development planning in West Berkshire which is being consolidated by the preparation of the Housing Site Allocations DPD.
- 7.4. Policy CS 1 Delivering New Homes and Retaining the Housing Stock details how provision will be made for the delivery of at least 10,500 net additional dwellings within the Development Plan timescale. New homes are proposed to be located in accordance with the settlement hierarchy outlined in the spatial strategy and Area Delivery Plan policies. With specific reference being made to new homes being primarily developed on suitable, previously developed land and/or other suitable land with settlement boundaries.
- 7.5. The proposed development at the garden land at No. 5 Normay Rise, Newbury is within the settlement boundary of Newbury, as defined within The West Berkshire Core Strategy (2006-2026) and the West Berkshire Housing Site Allocations DPD (November 2015).
- 7.6. Being within the settlement boundary the principle of a new dwelling in this location is considered acceptable. A new dwelling is considered to fall within a sustainable location, close to public transport, jobs, and amenities which are all within reach of the application site. The principle of a new dwelling in this area is subject to the proposal otherwise being in accordance with development plan policies on design, impact on the character of the area, and impact on the amenity of neighbouring land uses. These issues will be subject to conditions to discharge the reserved matters which will provide more information on these matters.
- 7.7. Officers therefore consider that the principle of the proposed development is in accordance with ADDP 1 and CS1 of the West Berkshire Core Strategy (2006-2026).

## **8. Highways Implications: Access**

- 8.1. Access is the only matter for consideration on this outline application. Visibility splays of 2.4 metres x 43 metres or clear to the junction with Normay Rise have been identified on the submitted plans. This is in accordance with Manual for Streets and is therefore acceptable.
- 8.2. The access must be surfaced with a bonded material for a minimum of 3 metres from the edge of the carriageway.
- 8.3. In accordance with West Berkshire Council's car parking standards this site is located within Zone 2. The table below identifies that a 4-bed dwelling in this location should be provided with 2.5 driveway car parking spaces. Garages are no longer included as car parking spaces by West Berkshire Council due to the likelihood of them not being used as such. They can be used for cycle storage. The driveway depicted can easily accommodate the required level of car parking
- 8.4. The Highways Department are of the opinion that the application is acceptable subject to conditions. The proposal is therefore considered in accordance with

CS13 of the West Berkshire Core Strategy (2006-2026) and P 1 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015).

## **9. The Impact on the Green Infrastructure of the Site**

- 9.1. The proposal is for a back garden development of a single dwelling. There is a mature oak within the garden covered by a TPO and a Lawson cypress hedge along the southern section adjacent Willowmead Close. There are two other trees. These other trees are a cherry and a maple in the northern section of the garden adjacent No.7 Normay Rise is also covered by the TPO.
- 9.2. There has been a tree survey carried out by Nurture Green ref NGTS280417 dated April 2017. The survey says the conifers are dying of what is believed to be honey fungus as the primary cause but there is no sign of this pathogen according to the Council's Tree Officer. The conifers have since died and the disease is moving easterly direction through the conifers. The oak also has a sparse canopy.
- 9.3. The plan shows the generic circle of the RPA (Root Protection Area) but does not take into account the road or the footpath, however this is only a tree survey a further impact assessment and method statement would need to be carried out. The proposed design of the driveway from Home Architecture shows it on the edge of the RPA.
- 9.4. The Tree Officer has no objections to the access to this property however the design of the access and the location of the garage is just on the edge of the RPA and does not allow any working space which should be approximately 2m.
- 9.5. The Tree Officer does not raise objection in principle to the point of access subject to further more detailed Arboricultural Impact Assessment, Method Statement, and additional landscaping of which can be controlled by condition.

## **10. The Impact on the Character and Appearance of the Area**

- 10.1. The NPPF is clear that good design is indivisible from good planning; it attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, it is indivisible from good planning, and should contribute positively to making places better for people. It emphasises the importance to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings.
- 10.2. Policy CS14 Design Principles states how a proposal should demonstrate a high quality design that respects and enhances the area and makes a positive contribution to the quality of life in West Berkshire. It should respond positively to the wider context it is placed in, not just the immediate area. CS19 Historic Environment and Landscape Character seeks proposal to respond appropriately in terms of location, scale and design reflecting a holistic approach to the local distinctiveness, sensitivity, and diversity of locations.
- 10.3. Although appearance, layout and scale are reserved matters, the case officer offers comments upon these elements at the outline stage. The case officer is aware of the objections raised to the impact on the streetscene however to an extent the

indicative plan respects the streetscene and the principle of a domestic dwelling in this location would in keeping with the surrounding buildings, if designed sympathetically. At the reserved matters stage, a design could be created that does not have an adverse impact on the character of the area.

## **11. The Impact on Neighbouring Amenity**

- 11.1. Policy CS 14 of the West Berkshire Core Strategy (2006-2026) requires a high quality and sustainable design from all new development that enhances the character of the area making a positive contribution to the quality of life in West Berkshire. The policy goes on to state that amongst other elements new development should have regard not to just the immediate area, but the wider locality.
- 11.2. Although designs are not submitted the spacing of the indicative layout raises concerns in regards to overshadowing neighbouring amenity and overlooking of neighbouring properties.
- 11.3. The case officer cannot object as the design of the proposed dwelling is a reserved matter but wish to make the applicant aware that the design will need to be well thought out to avoid conflicting with established uses on site.
- 11.4. The case officer is also aware of the size of the plot and notes that 100sqm of high quality private amenity space must be provided alongside parking and a design that respects the streetscene.

## **12. Other Matters**

- 12.1. Issues raised by objection letters will be addressed in this section.
  - All applications are treated on their individual merits and the whether a HMO will be formed is not a matter than can be considered here.
  - The issues in regards to the increased traffic and parking that the area may experience have been assessed by the Council's Highways Department and found to be in accordance with Policy or able to be controlled by Planning Condition.
  - The issues raised in regards to the impact on the neighbouring amenity from a proposed dwelling cannot be determined as no elevations are submitted. Matters of Appearance and Scale are reserved, as such no assumptions can be made and a form of high quality design could be utilised to make a dwelling in this area acceptable. The reserved matters application will determine this.
  - As with the previous issue, issues in regards to the impact on the streetscene and the design of a proposed new dwelling cannot be determined as these matters are reserved, as such no assumptions can be made and a form of high quality design could be utilised to make a dwelling in this area acceptable. The reserved matters application will determine this.
  - The impact on the trees on site has been addressed by the Tree Officer and can be controlled by condition.
  - The proposal does not fall within a flood zone and as such no concerns can be raised in regards to flooding.
  - The sloping nature of the site can be controlled and assessed through a site levels condition at reserved matters stage.



- The objection raised to the impact on DVLA test routes is not a planning consideration.
- The objection raised to the lack of detail within the application is not something that can be considered as an outline application has met all the legislative requirements to meet the registration process.
- The concerns over foundations and subsistence are building control matters, these are beyond planning considerations.
- Devaluation of surrounding area is not a planning consideration

12.2. Presumption in favour of sustainable development

12.3. The National Planning Policy Framework places a strong emphasis on sustainable development. All planning applications must result in sustainable development with consideration being given to economic, social and environmental sustainability aspects of the proposal.

12.4. Being a proposed new dwelling house, the scheme will bring economic benefit through the short term construction period and long term by adding to the available housing stock of West Berkshire. The Environmental considerations have been assessed in terms of its location within settlement boundaries creating a new dwelling in a sustainable location. Social considerations overlap those of the environmental considerations as the proposed is considered to be in a sustainable location with controlled impacts on the trees on the site and surrounding highways. Sustainable development in terms of the amenity, design and impact on the area will all be controlled and considered more closely at reserved matters stage.

12.5. Paragraph 203 of the NPPF is clear that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The NPPF goes on to state at paragraph 206 that conditions should only be imposed where they are necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects. It is also clear that whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. Conditions have been placed in regards to the

- Matters Reserved Condition
- Time limit to submission of reserved matters
- Time limit to commencement
- Approved Plans
- Surfacing of Access
- Vehicle Parking provide to parking standards
- Visibility splays
- Cycle storage submission of details
- Tree Protection details to be submitted
- Arboricultural Method Statement to be submitted
- Hours of Work
- Landscaping details to be submitted
- Site levels details to be submitted
- Boundary treatments details to be submitted
- Hard surfacing details to be submitted
- Sample of materials details to be submitted

12.6. The CIL charge for a new dwelling will be £75 for development with Newbury. This will be calculated at reserved matters stage when floor plans are submitted.

### **13. Conclusion**

The proposed development within the garden land at No. 5 Normay Rise, Newbury is within the settlement boundary of Newbury, it is therefore considered a sustainable location for a new dwelling in accordance with policy. The Highways Department are satisfied that the access to serve a new dwelling in this location will not have a detrimental impact on the surrounding highways. The Tree Officer has recommended a number of conditions to control the impact on the existing trees on site. Although a number of objections have been submitted they object to matters that are controlled at reserved matters stage and therefore the case officer is unable to refuse the application upon these matters.

The proposal is therefore considered in accordance with West Berkshire Core Strategy (2006-2026) policies ADDP1, CS1, CS13, CS14, CS17, and CS19 and P1 of the West Berkshire Housing Site Allocations Development Plan Document (November 2015).

### **14. Full Recommendation**

The Head of Development and Planning be authorised to **GRANT** conditional planning permission

#### **1. Matters Reserved**

Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

#### **2. Time Limit of Reserved Matters**

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

#### **3. Time Limit of Commencement**

The development to which this permission relates shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the approved matters to be approved, whichever is the later.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

#### **4. Approved Plans**

The development hereby permitted shall be carried out in accordance with the approved drawing number

- Drawing title "Proposed New Dwelling/ Proposed Site Plan". Drawing number 352/PO2. Date stamped 17<sup>th</sup> August 2017.

Reason: For the avoidance of doubt and in the interest of proper planning. It should be noted that the siting of the dwellings on the plan is illustrative only.

#### **5. Surfacing of access**

No development shall take place until details of the surfacing arrangements for the vehicular access(es) to the highway have been submitted to and approved in writing by the Local Planning Authority. Such details shall ensure that bonded material is used across the entire width of the access(es) for a distance of 3 metres measured back from the carriageway edge. Thereafter the surfacing arrangements shall be constructed in accordance with the approved details.

Reason: To avoid migration of loose material onto the highway 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).

#### **6. Vehicle parking provided to standards**

No development shall take place until details of the vehicle parking and turning space/areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall show how the parking spaces are to be surfaced and marked out. The dwelling shall not be occupied until the vehicle parking and turning spaces/areas have been provided in accordance with the approved details. 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 which 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).

#### **7. Visibility splays before development**

No development shall take place until visibility splays of 2.4 metres by 43 metres have been provided at the access. The visibility splays shall, thereafter, be kept free of all obstructions to visibility above a height of 0.6 metres above 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).

#### **8. Cycle storage**

No development shall take place until details of the cycle parking and storage space have been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the cycle parking and storage space has been provided in accordance with the approved details and retained for this purpose at all times.

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

#### **9. Tree Protection**

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 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 the objectives of the NPPF and Policies CS14, CS18 and CS19 of West Berkshire Core Strategy 2006-2026.

#### **10. Arboricultural Method Statement**

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 the NPPF and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.

#### **11. Hours of Work**

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:

7.30 am to 6.00 p.m. on Mondays to Fridays 8.30 am to 1.00 p.m. on Saturdays and NO work shall be carried out on Sundays or Bank Holidays.

Reason: In the interests of the amenities of neighbouring occupiers. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS14 of the West Berkshire Core Strategy (2006-2026).

#### **12. Construction Method Statement**

No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. 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;

Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved statement.

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 CS13 and CS14 of the West Berkshire Core Strategy (2006-2026).

#### **13. Landscaping**

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 NPPF and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.

#### **14. Site Levels**

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

Reason: To ensure a satisfactory relationship between the proposed development and the adjacent land. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).

#### **15. Boundary Treatments**

No development shall take place until details, to include a plan, indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved scheme before the dwellings hereby permitted are occupied. The approved boundary treatments shall thereafter be retained.

Reason: The boundary treatment is an essential element 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. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).

#### **16. Hard Surfacing Treatments**

No development shall take place until details, to include a plan, indicating 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. The hard surfacing shall incorporate the use of a porous material. The hard surfacing shall be completed in accordance with the approved scheme before the dwellings hereby permitted are occupied. The approved hard surfacing shall thereafter be retained.

Reason: In the interests of visual amenity. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).

#### **17. Submission of samples**

No development shall take place until samples, and an accompanying schedule, of the materials to be used in the construction of the dwellings have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved materials.

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

Informatives:

#### **HI 1 Access construction**

The Highways Manager, West Berkshire District Council, Transport & Countryside, Council Offices, Market Street, Newbury, RG14 5LD, telephone number 01635 – 519887, 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 applicant's behalf.

### **HI 3 Damage to footways, cycleways and verges**

The attention of the applicant is drawn to the Berkshire Act, 1986, Part II, Clause 9, which enables the Highway Authority to recover the costs of repairing damage to the footway, cycleway or grass verge, arising during building operations.

### **HI 4 Damage to the carriageway**

The attention of the applicant is drawn to the Highways Act, 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.

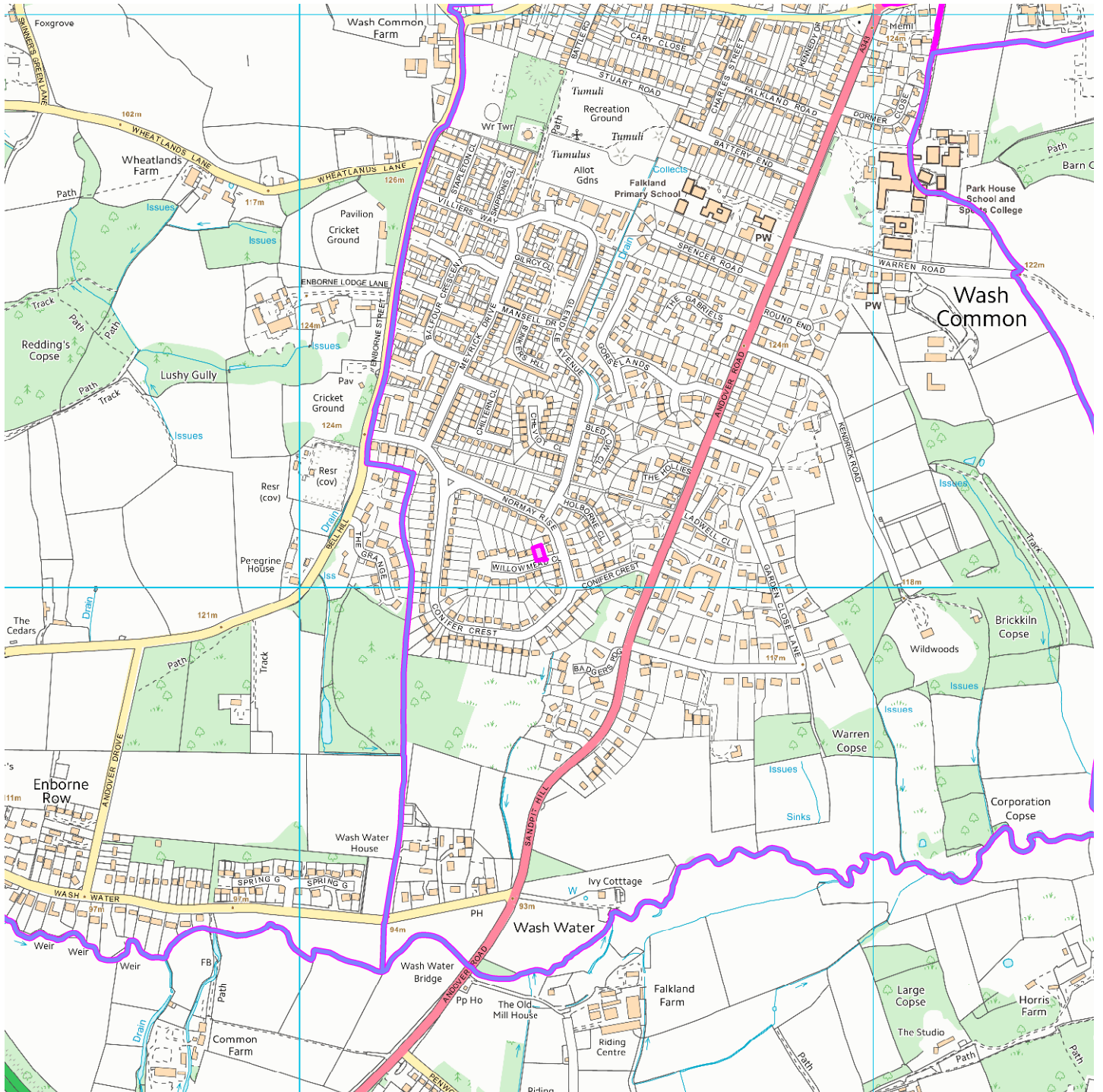
### **HI 8 Excavation in close proximity to the highway**

In order to protect the stability of the highway it is advised that no excavation be carried out within 15 metres of a public highway without the written approval of the Highway Authority.

### **Birds' Nests**

Birds nests, when occupied or being built, receive legal protection under the Wildlife and Countryside Act 1981 (as amended). It is highly advisable to undertake clearance of potential nesting habitat (such as hedges, scrub, trees, suitable outbuildings etc.) outside the bird nesting season, which is generally seen as extending from March to the end of August, although may extend longer depending on local conditions. If there is absolutely no alternative to doing the work in during this period then a thorough, careful and quiet examination of the affected area must be carried out before clearance starts. If occupied nests are present then work must stop in that area, a suitable (approximately 5m) stand-off maintained, and clearance can only recommence once the nest becomes unoccupied of its own accord.

DC



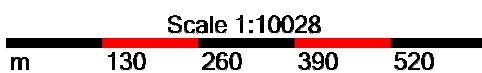
Map Centre Coordinates :

Scale : 1:10027

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<b>Organisation</b>	West Berkshire Council
<b>Department</b>	
<b>Comments</b>	
<b>Date</b>	17 August 2017
<b>SLA Number</b>	0100024151



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# Agenda Item 4.(2)

Item No	Application No. and Parish	8/13 week date	Proposal, Location and Applicant
(2)	17/00939/FUL Shaw Cum Donnington PC	12 <sup>th</sup> July 2017 Extension of time arranged to 31 <sup>st</sup> August 2017.	Change of use of half a section of orchard land to garden use. Erection of Oak framed car port and turning area. The Barn Highwood Farm, Long Lane, Shaw, Newbury, Berkshire  Mr Bjian and Marianne Mohandes

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

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=17/00939/FUL>

**Recommendation Summary:**      **The Head of Development and Planning be  
authorise to REFUSE planning permission**

**Ward Member(s):**                      P.E. Bryant  
M. R. Franks

**Reason for Committee  
Determination:**                      Ward Member call-in by Cllr. Bryant if the case officer  
is likely to recommend refusal.

Site visit requested.

Call in reason: The proposal is to construct a garage in  
an old orchard outside the curtilage of The Barn but on  
land under the ownership of the applicant. It is  
technically in open countryside but the site visit will  
show that the land is in an un-maintained orchard and  
will cause little harm.

**Committee Site Visit:**                      23<sup>rd</sup> August 2017

## Contact Officer Details

**Name:**                                      Mr. Matthew Shepherd  
**Job Title:**                                  Planning Officer  
**Tel No:**                                      (01635) 519111  
**E-mail Address:**                          Matthew.Shepherd@westberks.gov.uk

## 1. Site History

74/01922/ADD. Erection of agricultural dwelling. Refuse 12.02.1975.

75/03143/ADD. Station a caravan to provide accommodation to facilitate the work of the land for horticultural purposes. Refuse 10.09.1975.

79/11165/add. Overhead high voltage line and proposed pole transformer to Highwood farm in the parish of Shaw cum Donnington and cold ash in the county of Berkshire. Cannot be determined.

80/014303/ADD. Conversion of the outbuildings into a dwelling. Refused 14.01.1981.

82/16963/ADD. Conversion of eastern end of cow shed to boarding cattery for 20 cats. Approved 12.05.1982.

01/00187/HOUSE. Single storey side extension to form new kitchen and cloakroom. Approved 22.05.2001.

04/00806/OUT. Conversion to residential of redundant farm buildings. Withdrawn 22.04.2004.

06/00174/FLUD. Conversion of car shed into arts and crafts studio (non commercial) and adjoining barn into one bedroom guest accommodation. Approved 03.04.2006.

13/03162/CERTE. Change of use of land to garden area. Refuse 13.02.2014.

14/02664/FLUD. S73- Variation of condition 5 ancillary to residential use, approved reference 06/00174/FLUD, conversion of car shed into arts and crafts studio (non commercial) and adjoining barn into one bedroom guest accommodation. Invalid 28.11.2014.

14/02925/FLUD. S73- Variation of condition 5 ancillary to residential use, approved reference 06/00174/FLUD, conversion of car shed into arts and crafts studio (non commercial) and adjoining barn into one bedroom guest accommodation. Approved 04.03.2015.

15/002106/CERTE. Change of use of land to garden area. Refuse 28.10.2015.

## 2. Publicity of Application

Site Notice Expired: 05/07/2017

## 3. Consultations and Representations

**Shaw Cum Donnington Parish Council:** No objection to erection of garage but objections to change of use from orchard land to garden use.

**Highways:** No objection. The existing access is unaffected by the proposal. Condition suggested.

**Ramblers  
Association**

No response by 16/08/2017

**Cold Ash Parish  
Council (Adjoining  
Parish)**

No response by 16/08/2017

**Tree Officer**

I have visited the site and assessed the details submitted. Whilst a topography plan has been submitted showing the position of specimen trees and the existing trees and hedge screening along the bridleway, no further landscaping or details of foundations have been provided.

Currently there would be concerns over the potential impact of the new gravel driveway and foundations of the carport impacting in particular the mature walnut tree in the rear garden and the existing hedge screening and younger trees along the bridleway edge. In addition, the potential increase in traffic movements within the site could lead to further harm

There may be other surfacing solutions which would be less invasive within the area than the proposed gravel drive, however, it is noted that there appears to be areas of previous building rubble and hardcore within the proposed area which may need re-levelling.

The existing trees and sparse former hedge would benefit from some remedial works and infilling with new hedging alongside the bridleway within the property boundary.

Conclusions: There is currently insufficient information submitted with the application. However, appropriate conditions could be applied which are attached. In addition, consideration is given to the changes in levels and the potential impact of this on the existing trees and screening along the bridleway.

**Newbury Town  
Council (Adjoining  
Parish)**

No response by 16/08/2017

**Public Rights of Way**

Bridleway 3 Shaw forms part of the proposed access.

Private rights of vehicular access are required in order to use a vehicle legally along a public right of way. I am assuming such rights are existing and attached to the main Highwood Farm property.

There might be an adverse effect on the surface of the bridleway as a result of construction, and then access to and from the new garage. However, any surface problems caused as a result of private vehicular access will be required to be remedied by those using the access.

I have no objection to the application provided informatives are applied

**Environmental Health**

No comments

**Correspondence:**

No letters of support or objection received.

**4. Policy Considerations**

4.1. The planning system is plan-led, which means that planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The West Berkshire Development Plan comprises:

- The West Berkshire Core Strategy 2006-2026
- The West Berkshire District Local Plan 1991-2006 Saved Policies 2007
- The West Berkshire Proposed Housing Site Allocations (DPD)
- The South East Plan 2009 insofar as Policy NRM6 applies
- The Replacement Minerals Local Plan for Berkshire 2001
- The Waste Local Plan for Berkshire 1998
- Supplementary Planning Documents and Guidance

4.2. In this instance, the following policies of the Development Plan are considered relevant to the proposal.

- Area Delivery Plan Policy 1 Spatial Strategy
- Area Delivery Plan Policy 2 Newbury
- CS 13 Transport
- CS 14 Design Principles
- CS 17 Biodiversity and Geodiversity
- CS 19 Historic Environment and Landscape Character

4.3. West Berkshire Housing Site Allocations Development Plan Document (November 2015)

- C 6 Extension of Existing Dwellings within the Countryside
- C 8 Extension of Residential Curtilages

- 4.4. The West Berkshire Core Strategy replaced a number of Planning Policies in the West Berkshire District Local Plan 1991-2006 Saved Policies 2007. However, the following policies remain in place until they are replaced by development plan documents and should be given due weight according to their degree of consistency with the National Planning Policy Framework.
- TRANS 1 Meeting the Transport Needs of New Development
  - OVS.5 Environmental Nuisance and Pollution Control
  - OVS.6 Noise Pollution
- 4.5. The Core Strategy was adopted after the introduction of the NPPF and provides an up to date framework for development planning in West Berkshire which is consolidated by the West Berkshire Housing Site Allocations (DPD) (November 2015). Supplementary Planning Guidance;
- Quality Design (June 2006)
  - Community Infrastructure Levy (CIL) Charging Schedule
- 4.6. Other Material Considerations
- National Planning Policy Framework (March 2012)
  - Planning Practice Guidance (March 2014)

## **5. Description of Development**

- 5.1. The proposed development is the change of use of half a section of orchard land to garden use. Erection of oak framed car port and turning area at the property The Barn, Highwood Farm, Long Lane, Shaw.
- 5.2. The application that subdivided Highwood Farm in 2015 (reference 14/03042/FLUD) defined the domestic curtilages in the approved plan "Proposed subdivision of plots shown on drawing 1069928-15-07 received via email dated 3<sup>rd</sup> March 2015". This application for the subdivision of the farm notably raised no objection from the highways department who comments were "I do not however have concerns over the overall level of car parking at the site" contained within the delegated report.
- 5.3. As noted in aerial photographs the area to the front of The Barn was clear and gravelled, displaying an adequate area for parking. Aerial photographs and site photo now show this area to be altered with a degree of residential garden area being present.

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

- Extension to the Residential Curtilage
- Extension of Existing Dwellings within the Countryside
- The Impact on Neighbouring Amenity
- The Impact on Biodiveristy and Geodiveristy on site
- Highways Implications
- Other Matters

## **7. Extension to the Residential Curtilage**

- 7.1. Policy C8 states that extensions to existing residential curtilages will only be permitted where it can be shown that there is no adverse impact on the character and local distinctiveness of the rural area, the setting of the property or encroachment on the rural area, public footpaths and on the amenity of local residents. It goes on to state that proposals will be considered where:-
- It is required to provide parking in the interest of highways safety
  - To realign a garden boundary or extend a garden to achieve a similar level of provision to other dwellings in the immediate area.
- 7.2. The case officer has received correspondence in response to policy C6 from the applicant. In response to section (i). of the policy, the applicant argues there is insufficient parking available at peak times for visitors. This leads to visitors parking on the bridleway causing obstruction. The space available on the site does not allow car ports to be built either, in the applicant's opinion.
- 7.3. The case officer has performed a site visit and has viewed aerial photographs of the site. He notes that the area to the front of the Barn was shown to be entirely driveway in aerial photographs submitted in the application for the properties subdivision reference 14/03042/FLUD. This area was gravelled and led to the garages to the west of the site. This area, formerly used for parking has now been utilised as domestic garden space with patio chairs and a garden area has been constructed. The case officer is aware that beyond this garden area is the original garage which upon site visit was used for storage of domestic gardening equipment. This could easily allow for a car port of adequate size on site if redeveloped. During the site visit three cars were parked to the front of the property none of which were obstructing the PROW. This would meet the requirements of parking policy P 1 of the West Berkshire HSADPD for a property in this area.
- 7.4. The parking currently enjoyed on the site is not perceived to cause highways' safety issues, as it is far away from the carriage way. The applicant does not provide any evidence that there have been complaints, issues, or incidents with public rights of way users in regards to parking. The policy does not consider a need for visitor parking to be justification for the extending the residential curtilage.
- 7.5. The case officer would also like to make Members aware that informal parking arrangements for visitors up to 28 days a year are allowed under permitted development rights. These rights could be utilised for peak visitor times.
- 7.6. Section (ii) of the policy states proposals for extensions to curtilages will be considered where it realigns a garden boundary or extends a garden to achieve a similar level of provision to other dwellings in the immediate area. The curtilage of the two properties was proposed by the applicant in application 14/03042/FLUD for the subdivision of the two properties. As referenced earlier the subdivisions are similar in size and benefit from generous plot sizes. The areas to the front of both properties lead to the garages and allowed for adequate parking at the time of subdivision, as shown in aerial photographs. The applicant has chosen to reduce the degree of parking on site by installing a front garden area for personal

enjoyment. The neighbouring property has retained its parking and driveway adjoining the garaging to the front of the house and does not suffer from the related reduced parking issues the applicant has put themselves in.

- 7.7. The supporting text of policy C8 states that inclusion of extension to non-residential land used for woodland can have significant urbanising effect due to the change of use. The large degree of hard surfacing and turning area has negative effect on what is an established wooded area. The change from grass / woodland that appears undisturbed and pleasant at the moment from the adjoining PROW, to a car port and a substantial degree surfacing would have an adverse impact on the character of the area. The change would be noticeably and harmful to the countryside character of the area.
- 7.8. Although the applicant has amended the proposal to reduce the size of the change of use to just the car port and turning area this was supported by the local Ward Member. Officers consider that the reduction in size does not mitigate the harm of the proposal. The smaller curtilage is still contrary to policy and divides the field even further and more notably, differently to adjoining neighbouring curtilages.
- 7.9. The applicant has suggested acceptable entrance and boundary treatments, specific details of these can be obtained by condition, additionally the surfacing of the turning area the applicant has been informed by suggestions made by Officers. Although these details are suitable, they do not justify the proposal which has little policy support.
- 7.10. The case officer finds little justification for the extension of the curtilage and as such cannot find support for the proposal within policy C8. There is no need for the extension to allow parking in the interests of highway safety. The only changes as seen by aerial photos and site visits is the creation of a front garden to the previous parking area. The curtilages as submitted in the 2014 application are similar and were considered acceptable by the applicant at the time of sub division. The case officer cannot find justification for the extension to the curtilage in this regard. The harm the proposal will bring to the rural character of the area is clearly contrary to policy. It is therefore considered the change of use is contrary to Policy C8 of the West Berkshire Housing Site Allocations Development Plan Document (November 2015).

## **8. Extension of Existing Dwellings within the Countryside**

- 8.1. The proposed car port must be considered despite the change of use section of the proposal being found unacceptable.
- 8.2. Policy C6 states that there is a presumption in favour of proposals for extensions to existing dwellings. The extension of the dwelling is through a car port. The car port as submitted is of wooden construction, it has two car port parking areas and a tool shed / enclosed area. The elevation drawings submit show dropped eaves towards the rear of the car port is utilised adding to the rural design. The car port is large in footprint but it sits below the ridge height of the original dwelling. The design is considered to be acceptable.
- 8.3. The second section of C6 states that proposals should not have an adverse impact on the setting, the space occupied within the plot or the rural character of the area.

Due to the proposal falling outside the domestic curtilage and the proposed extension to the curtilage being considered unacceptable, as explained earlier in the report, the proposal is considered to have an adverse impact on the rural character of the area and the space occupied within the plot of the domestic curtilage. It does however, not have an adverse impact on any historic interests of the original property. It is clearly unacceptable to permit an extension to a domestic property through an outbuilding that falls outside of the dwellings domestic curtilage. This does not respect the boundary or the space the property occupies and is therefore contrary to policy.

- 8.4. The proposed materials to be used in the proposal are not considered to have an adverse impact and are therefore in accordance with section (iii) of C6.
- 8.5. The last section of policy C6 is that there is no significant adverse impact on the living conditions currently enjoyed by adjoining residential properties. Due to the isolated nature of the site, and the siting of the proposed garage away from the neighbouring amenity, the proposed garage is not considered to have an adverse impact on neighbouring amenity.
- 8.6. The case officer therefore finds, despite the acceptable design proposed, the siting of the proposed car port outside of the domestic curtilage results in the proposal not being in accordance with section (ii) of policy C6 due to the proposal having an adverse impact on the setting, the space occupied and the local rural character due to it falling outside the domestic curtilage.
- 8.7. The proposal is therefore recommended for refusal as it is contrary to policy C6 of the West Berkshire Housing Site Allocations Development Plan Document (November 2015).

## **9. The Impact on Neighbouring Amenity**

- 9.1. Policy CS 14 of the West Berkshire Core Strategy (2006-2026) requires a high quality and sustainable design from all new development that enhances the character of the area making a positive contribution to the quality of life in West Berkshire. The policy goes on to state that amongst other elements new development should have regard not to just the immediate area, but the wider locality.
- 9.2. As noted earlier due to the location of the proposed development away from neighbouring properties the impact on the neighbouring amenity from the proposal is minimal. Despite this the proposal is still unacceptable in terms of the countryside policies of the West Berkshire HSADPD (November).

## **10. The Impact on Biodiversity and Geodiversity on site**

- 10.1. The Tree Officer has visited the site and assessed the details submitted. Whilst a topography plan has been submitted showing the position of specimen trees and the existing trees and hedge screening along the bridleway, no further landscaping or details of foundations have been provided.
- 10.2. Currently there would be concerns over the potential impact of the new gravel driveway and foundations of the carport impacting in particular the mature walnut



tree in the rear garden and the existing hedge screening and younger trees along the bridleway edge. In addition, the potential increase in traffic movements within the site could lead to further harm.

- 10.3. There may be other surfacing solutions which would be less invasive within the area than the proposed gravel drive, however, it is noted that there appears to be areas of previous building rubble and hardcore within the proposed area which may need re-levelling.
- 10.4. The existing trees and sparse former hedge would benefit from some remedial works and infilling with new hedging alongside the bridleway within the property boundary.
- 10.5. In conclusion, there is currently insufficient information submitted with the application. However, appropriate conditions could be applied that result in the proposal being in accordance with CS17 of the West Berkshire Core Strategy (2006-2026). In addition, consideration is given to the changes in levels and the potential impact of this on the existing trees and screening along the bridleway.

## **11. The Impact on Highways**

- 11.1. The Highways Department are of the opinion that the application is acceptable subject to conditions. They commented that the existing access to the carriage way is unaffected by the proposal. The proposal is therefore considered in accordance with CS13 of the West Berkshire Core Strategy (2006-2026) and P1 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015).

## **12. Other Matters**

- 12.1. Presumption in favour of sustainable development
- 12.2. The National Planning Policy Framework places a strong emphasis on sustainable development. All planning applications must result in sustainable development with consideration being given to economic, social and environmental sustainability aspects of the proposal.
- 12.3. The scheme has very limited economic considerations beyond the short term benefit the construction of the car port will bring.
- 12.4. The application is not considered environmentally or socially sustainable. The proposal is clearly contrary to policy to which planning decision should be policy lead unless other material considerations dictate. The case officer finds the encroachment on the countryside through urbanising a historically wooded area without proper justification or policy support is clearly unsustainable to future decisions. The case officer therefore finds the proposal not to constitute sustainable development the golden thread that must run through all planning decisions.
- 12.5. Paragraph 203 of the NPPF is clear that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The NPPF goes on to state at paragraph 206 that conditions should only be imposed where they are necessary; relevant to planning and; to the

development to be permitted; enforceable; precise and; reasonable in all other respects. It is also clear that whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. In this case no conditions can overcome the harm from the encroachment on the countryside that the extension to the residential curtilage will bring. Although conditions have been suggest by the Highways Officer and Tree Officer these do not overcome the issue that the proposed extension to the residential curtilage and Carport are clear contrary to policy.

- 12.6. The proposed floor space created is less than 100 square metres and therefore not liable for a CIL charge.

### **13. Conclusion**

- 13.1. In conclusion, the application for the change of use of a section of orchard to garden land and the erection of an oak car port is found to be unacceptable. The change of use of the land is contrary to both sections of Policy C8 where proposals will be considered, to provide parking off the highway and to realign the domestic curtilages with adjoining curtilages. In addition the car port is found to be contrary to C6 as it fails to respect the spacing and space occupied within the domestic curtilage due to it falling outside of the domestic curtilage. It therefore has an adverse impact on the plot boundary. The large degree of hard surfacing compared to the original wooded area would have an adverse affect on the rural character of the area and adjoining Public Right of Way.
- 13.2. The proposal is therefore contrary to C6 and C8 of the West Berkshire Housing Site Allocation DPD (November 2015) and is recommended that planning permission be refused.

### **14. Full Recommendation**

- 14.1 The Head of Development and Planning be authorised to **REFUSE** planning permission.

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## **Refusal - Contrary to C8**

Policy C8 of the West Berkshire HSADPD states that extensions to existing residential curtilages will only be permitted where it can be shown that there is no adverse impact on the character and local distinctiveness of the rural area, the setting of the property or encroachment on the rural area, public footpaths and on the amenity of local residents. It goes on to state that a proposal will be considered where

- It is required to provide parking in the interest of highways safety
- To realign a garden boundary or extend a garden to achieve a similar level of provision to other dwellings in the immediate area.

The site benefits from ample parking space. The area of former parking has been utilised as garden reducing the degree of parking. Despite this ample parking is still provided for three vehicles clear of the carriageway. The boundaries of the two adjoining are similar to each other and the proposal does not present justification for re-alignment. The extension of domestic curtilage has a harmful urbanising and encroaching impact on the open countryside. This will have an adverse impact on the rural character of the area through demonstrable domestication of open countryside.

The application is therefore contrary to C8 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015), CS14 and C19 of the West Berkshire Core Strategy (2006-2026), and National Planning Policy Framework (March 2012).

## **Refusal - Contrary to C6**

Policy C6 states that extensions to permanent dwellings in the countryside will be supported where there is no adverse impact on: the setting, the space occupied within the plot boundary, on local rural character. The proposed car port is found not to accord with the section (ii) of C6 of the West Berkshire HSADPD due to it falling outside of the domestic curtilage. This does not respect the setting of the domestic house as it extends the curtilage, it does not respect the plot boundary by proposed built form outside of the original curtilage. It also has an adverse impact on the rural character of the area by extending the domestic curtilage and changing the wooden areas character to a domestic one with a large amount of hard surfacing. This will have a demonstrable domestication of open countryside to the detriment of the rural character of the area.

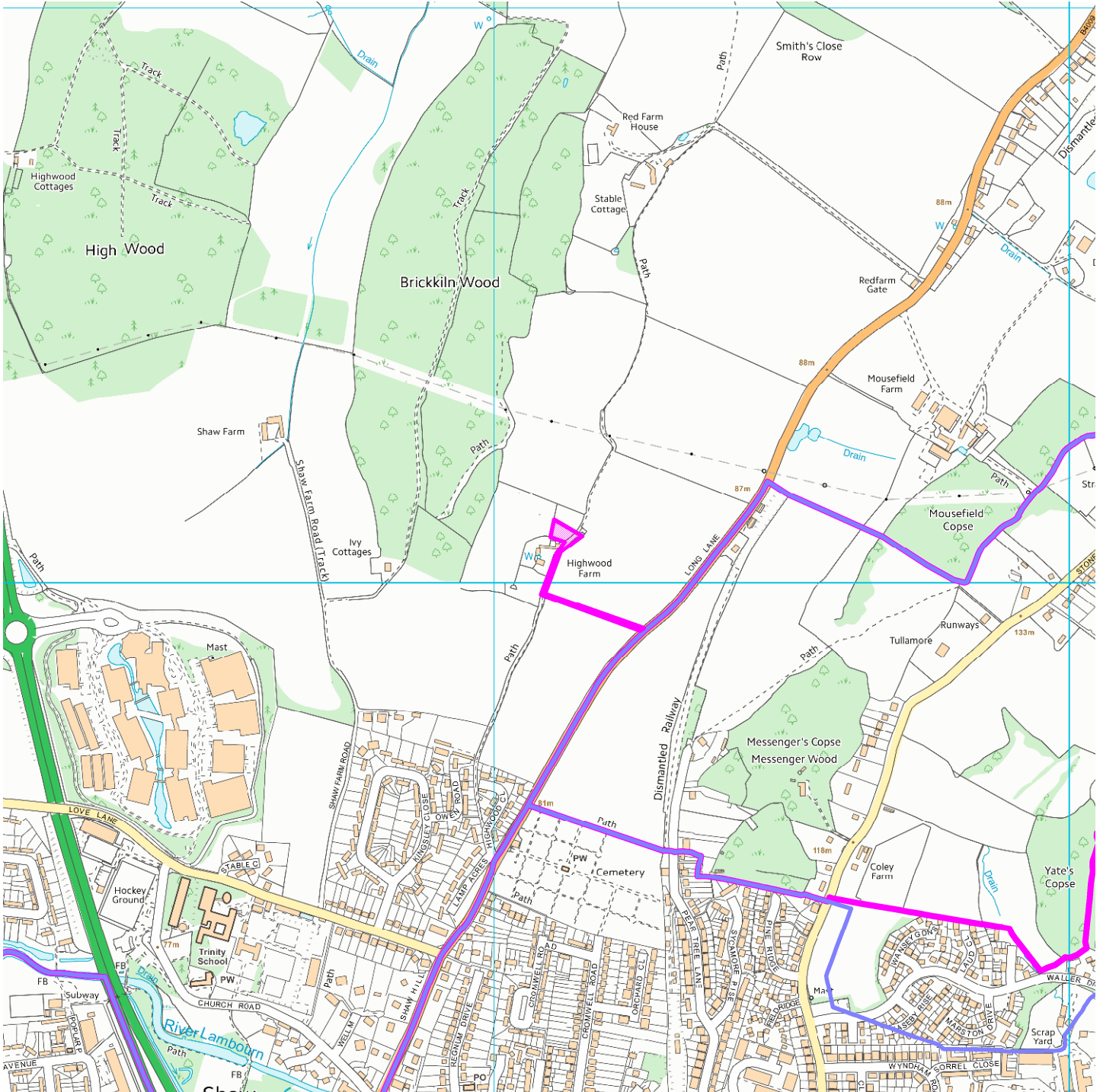
The application is therefore contrary to C6 of the West Berkshire Housing Site Allocations Development Plan Documents (November 2015), CS14 and C19 of the West Berkshire Core Strategy (2006-2026), and National Planning Policy Framework (March 2012).

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17/00939/FUL

The Barn, Highwood Farm, Long Lane, Shaw, RG14 2TB

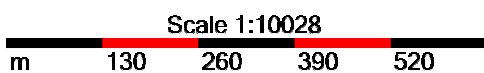


Map Centre Coordinates :

Scale : 1:10027

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<b>Organisation</b>	West Berkshire Council
<b>Department</b>	
<b>Comments</b>	
<b>Date</b>	17 August 2017
<b>SLA Number</b>	0100024151

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# Agenda Item 5.

## APPEAL DECISIONS WESTERN AREA-COMMITTEE

Parish and Application No Inspectorate's Ref	Location and Appellant	Proposal	Officer Rec.	Decision
GREENHAM 15/01369/CERTE  Pins Ref 3167986	Former GAMA Site Greenham Common, Basingstoke Road Greenham Flying A Services Ltd	Use of the property for internal storage use within Class B8.	Del Refusal	Allowed 14.8.17

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GREENHAM 15/01369/CERTE  Pins Ref 3167986	Former GAMA Site Greenham Common, Basingstoke Road Greenham Flying A Services Ltd	Use of the property for internal storage use within Class B8.	Del Refusal	Allowed 14.8.17
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### Application for costs

At the Hearing an application for costs was made by Flying A Services Ltd against West Berkshire Council. This application is the subject of a separate Decision.

### Reasons

The application and appeal site was formerly part of the Greenham Common Air Base. The Ground Launched Cruise Missile Alert and Maintenance Area (GAMA) was a secured area by the western end of the runway used for the storage and maintenance of armourments, including nuclear warhead armed cruise missiles. It comprises extensive open areas and numerous buildings, including 6 specialised cruise missile storage bunkers and 5 large general munitions storage buildings (known as Igloo Bomb Stores), along with large garage and maintenance buildings and a number of smaller buildings such as guard posts and a fire station. There are extensive areas of open hardstanding, some of which have temporary (10 year) permissions for open car storage. Due to its role in the Cold War and its wider cultural significance as a focus of mass protest, the site, which closed in 1992, has been designated as a scheduled monument.

The appellant company manages and has had the use of the site since it was purchased by a parent company in October 2003. It is involved in the collection and refurbishment of old aircraft, parts and equipment, mainly military, and battlefield vehicles. Up until 2003 a related company, Wizzard Investments Ltd, now dissolved, was based at North Weald Airfield where it rented hangar space for its collection of aircraft, parts and equipment. An August 2003 quarterly invoice for hangar rental was annotated as "Last payment". In October 2003, Wizzard Investments entered into an agreement with the appellant company to rent the appeal site and "Not to use it for any purpose except one falling within Class B8". Later in 2003 Wizzard Investments moved all of its stock and related equipment to the appeal site using shipping containers. Apparently the intention was to set up a museum on the site. Order confirmations and invoices for moving numerous containers from North Weald Airfield to the site were submitted with the application. These cover the period December 2003 to February 2004. Most of the items delivered in that period, along with the various containers and packing crates, have remained on the site, and other items have been brought onto the site since then, either to add to the collection or building materials potentially useable in the proposed museum. None of this is disputed.

Only 3 of the larger buildings on the site are secure, one of the Igloo Bomb Stores, the former maintenance shed and the former storage shed, and these buildings are where the more valuable items on the site are kept. The Council was satisfied on the evidence provided and the observations of its officers over the years that the former maintenance building, referred to as building 714, had been in continuous use for storage purposes for at least 10 years prior to the application date, so it granted the LDC in respect of that building alone. For the rest, the Council accepts that each of the larger buildings has been used at one time or another for storage purposes, but it is not satisfied that there is sufficient evidence to show that any of these buildings have been used for 10 years continuously for storage purposes, and on this basis it considers that the LDC cannot be granted on the basis applied for, the burden of proof being on the appellant.

Amongst the evidence relied upon by the Council is a YouTube video purportedly dating from 2007 which shows footage of some of the cruise missile bunkers, clearly empty at that time. Mr Arnold maintains that what is in the bunkers now, including shipping containers, metal presses, aircraft paint, engine and equipment boxes and miscellaneous building materials, has largely been there since the 2003/04 move, but points to a period in about 2005 when the northern row of bunkers were cleared in order to close the blast doors facing the old runway portion of the common for security purposes. The bunker doors were winched up from the inside using a Centurion tank based recovery vehicle. He points to the fact that the footage shows 2 bunker doors closed and 1 open as evidence that the video was made while that operation was in progress. The timings do not match,

but that seems to me to be a plausible explanation for the absence of items in the bunkers. The Council accepted that at the hearing. The video is not in any case determinative. It shows a bunker as empty, but the appellant does not claim that all of the buildings had items stored in them at all times over a 10 year period prior to the date of application, rather the buildings on the site as a whole have been used primarily for storage purposes since 2003/04, notwithstanding that some individual buildings have been vacant at various times or for extended periods during the relevant 10 year period.

This is the crux of the difference between the Council and the appellant. Both parties agree that the appropriate planning unit for the purposes of assessing whether there has been a change of use of the land is the overall former GAMA site, by reference to the tests proposed in the case of *Burdle*. And both parties agree that the site has been used since 2003/04 for the internal storage of most of the items moved to the site in 2003/04, and that some other items have been brought on or left since. However, it is the Council's case that it should only grant the certificate applied for in whole if it considers that there is sufficient evidence to show, on the balance of probabilities, that each of the individual buildings within the planning unit has been used for the purpose specified for the 10 years continuously prior to the application date.

However, the use of the planning unit must be assessed as a whole, and it is common ground that the individual buildings should not be considered to be planning units in themselves. There is considerable evidence that the primary use of the planning unit comprising the site since late 2003 has been for keeping the majority of the large number of items moved there from North Weald Airfield, along with other items which have been brought onto the site to be kept for a period. The more valuable items have been kept in the secure buildings, with the less valuable items or those less susceptible to theft or damage kept in the more open buildings. Not all of the more open buildings have been in constant use, and items have been moved from building to building as needs be. There is not specific evidence before me of the frequency or intensity of the use of individual buildings or groups of buildings. Certainly some of the buildings appear to have had fairly limited use for storage purposes, particularly the less secure Igloo buildings furthest from the former maintenance shed which appears to be the focus of operations on the site.

Nonetheless, the pattern of use that emerges from the evidence provided and elaborated upon at the hearing appeared to the Inspector to be most appropriately described as a use of the overall site for internal storage uses. That appears to have been the purpose of the purchase of the site, and all of the larger buildings have been used for storage at some stage. When vacant, buildings appear to have been kept available for storage and not used for other purposes. The items being kept in the buildings have been put there with a view to subsequent re-use or for safe-keeping. These are storage uses. A use for storage falls within Class B8 of Schedule 1 of the Use Classes Order. I consider that the evidence provided is sufficient to establish, on the balance of probability, and as a matter of fact and degree, that this has been the primary use of the planning unit for over 10 years prior to the LDC application date. As such the use, being a material change of use of the land from what appears to have been a nil use following abandonment of the previous use as a military facility, is immune from enforcement by virtue of section 171B(3) of the 1990 Act. It follows that it has become lawful by reference to section 191(2)(a).

For these reasons, the Inspector considered that the Council's refusal in part to grant an LDC for use of the property for internal storage within class B8 was not well founded. The appeal succeeds accordingly and the Inspector exercised the powers transferred to him under section 195(2) of the 1990 Act as amended.

### **Decision**

The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

## **Costs Decision**

### **Reasons**

Parties to a planning appeal are normally expected to bear their own costs, but costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense. In this case the appellant submits that the Council has acted inconsistently with regard to the established legal principles, and that had it assessed the application correctly it would have granted the LDC in full and the appeal would not have been necessary. However, the Inspector did not accept that the Council's conclusion in respect of the former maintenance building, namely that it had been used for 10 years for storage purposes, necessarily determined the character of the use of the site as a whole over the relevant period. On a large site such as this with numerous buildings it is not invariably the case that the use of a single building establishes the overall use of the site as a single planning unit. Although the Inspector came to a different conclusion to the Council, he found the hearing necessary to gain a full understanding of how the site as a whole was used over the relevant period. He did not find the evidence submitted in support of the application to be sufficiently precise and unambiguous on its own to justify the issue of an LDC in the terms applied for.

The Council has also been criticised for refusing to reveal the legal advice which it says underpinned its decision. The Inspector certainly found it unhelpful for the Council not to disclose whatever advice it did have, but in his view this was a case that stood to be assessed on its own facts.

Regarding the length of time that the Council took to determine the application, it was open to the appellant to make an appeal against non-determination of the application. The Inspector's view is that the hearing was necessary and he had not seen any evidence of how the delay might have added unnecessarily to the costs incurred.

Overall, the Inspector's conclusion is that unreasonable behaviour on the part of the Council leading to wasted or unnecessary costs for the appellant has not been demonstrated, and it follows that an award of costs is not warranted.

DC

