

Notice of Meeting



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Western Area Planning Committee Wednesday 21 June 2023 at 6.30 pm in the Council Chamber Council Offices Market Street Newbury

This meeting will be streamed live here: [Link to Western Area Planning Committee broadcasts](#)

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If members of the public wish to attend the meeting they can do so either remotely or in person. Members of the public who wish to attend must notify the Planning Team by no later than 4.00pm on 20 June 2023 by emailing planningcommittee@westberks.gov.uk.

Members Interests

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

Date of despatch of Agenda: Tuesday, 13 June 2023

Further information for members of the public

Plans and photographs relating to the Planning Applications to be considered at the meeting can be viewed by clicking on the link on the front page of the relevant report.

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 or email planningcommittee@westberks.gov.uk.

Further information, Planning Applications and Minutes are also available on the Council's website at www.westberks.gov.uk

Any queries relating to the Committee should be directed to the Democratic Services Team by emailing executivecycle@westberks.gov.uk.



Agenda - Western Area Planning Committee to be held on Wednesday, 21 June 2023
(continued)

To: Councillors Adrian Abbs (Chairman), Clive Hooker (Vice-Chairman), Phil Barnett, Dennis Benneyworth, Patrick Clark, Heather Codling, Carolyne Culver, Tony Vickers and Howard Woollaston

Substitutes: Councillors Antony Amirtharaj, Paul Dick, Billy Drummond, Denise Gaines and David Marsh

Agenda

Part I	Page No.
1. Apologies for absence To receive apologies for inability to attend the meeting (if any).	
2. Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 1 March 2023 and 25 May 2023.	7 - 18
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 <i>(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).</i>	19 - 20
(1) Application No. and Parish: 21/02529/COMIND, Ownham Farm, Newbury, RG20 8PL Proposal:	21 - 88
	Proposed change of use from agricultural to new equine facility (racehorse training and stabling) for 45No horses, including the installation of associated car park, all storm water and foul water drainage, and new landscaping.
	The installation of new entrance gates within existing vehicular access and gallops - (Part Implemented).
	Refurbishment of existing former farm buildings, demolition of existing hay barn, erection of new stable building, horse walker and lunge pen – (Retrospective).

Agenda - Western Area Planning Committee to be held on Wednesday, 21 June 2023

(continued)

Location: Ownham Farm, Unnamed Road From Valley Road
To Ownham, Ownham, Newbury, West Berkshire,
RG20 8PL.

Applicant: HDR Ltd

Recommendation: To **DELEGATE** to the **Development Control Manager** to **GRANT PLANNING PERMISSION** subject to the schedule of conditions (Section 8 of the report), comments from Natural England with regard to the Habitats Regulation Assessment and the completion of a Section 106 legal agreement as a planning obligation to secure the Habitats Regulation Assessment recommendations.

OR

If the legal agreement is not completed by the 21st September 2023 (3 months of the committee meeting), or such other date as agreed in writing by the Development Control Manager in consultation with the Chairman of the Committee, to **DELEGATE** to the Development Control Manager to **REFUSE PLANNING PERMISSION**, for the reasons set out in Section 8 of the report.

(2) **Application No. and Parish: 22/02695/MDOPO2, Land South Of Priory Road, Hungerford** 89 - 122

Proposal:

Request under section 106A subsection (1)(a) to modify the planning obligations within the section 106 legal agreement dated 16th November 2018 in relation to planning permission 16/03061/OUTMAJ - To amend the mortgagee exemption clause so that it will be satisfactory to the Registered Provider's lender to ensure that they will be able to secure the maximum amount against the Affordable Housing Units so as to facilitate the ongoing delivery of affordable housing within the area.

Location: Land South Of Priory Road, Hungerford

Applicant: Synergy Housing Ltd

Recommendation: To **DELEGATE** to the Development Control Manager to **GRANT APPROVAL** of the deed of variation.

(3) **Application No. and Parish: 23/00584/OUT, Harefield House and The Gables, Hungerford** 123 - 136

Proposal:

S73A Application for Variation of a Condition 13 (contamination remediation) following Grant of

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(continued)

Planning Permission 15/01355/OUTD - S73A - Variation of Conditions 4, 6, 7, 8, 10, 11, 13, 14, 15, 18 and Condition 20 of approved application 12/01584/OUTD - Residential development for two (2) detached houses with garages.

Location: Harefield House and The Gables, Upper Eddington, Hungerford

Applicant: NHBC

Recommendation: To **DELEGATE** to the Development Control Manager to **GRANT APPROVAL**.

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.

Sarah Clarke.

Sarah Clarke
Service Director – Strategy & Governance
West Berkshire District Council

If you require this information in a different format or translation, please contact Stephen Chard on (01635) 519462.



West Berkshire
C O U N C I L

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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, 1 MARCH 2023

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

Also Present: Sarah Clarke (Service Director (Strategy and Governance)), Paul Goddard (Team Leader - Highways Development Control), Niko Grigoropoulos (Team Leader Development Control), Cheyanne Kirby (Senior Planning Officer), Benjamin Ryan (Democratic Services Officer) and Simon Till ((Team Leader Development Control)

PART I

28. Minutes

The Minutes of the meeting held on 8 February 2023 were approved as a true and correct record and signed by the Chairman, subject to the inclusion of the following amendments:

- On page 34, point 64, it should state that the AONB (Area of Outstanding Natural Beauty) did not get subsequent opportunities to comment on the proposal after it was proposed to cut down the trees.

Councillors Howard Woollaston and Dennis Benneyworth abstained from voting due to their absence at the previous meeting.

Councillor Carlyne Culver noted that she was yet to see the Section 106 Agreement for Compton Institute, as mentioned on page 7 of the minutes.

29. Declarations of Interest

There were no declarations of interest received.

30. Schedule of Planning Applications

(1) Application No. and Parish: 22/01901/FULMAJ, Deerbourn, Inkpen, RG17 9DE

1. The Committee considered a report (Agenda Item 4(1)) concerning Planning Application 22/01901/FULMAJ in respect of Deerbourn, Inkpen, RG17 9DE.
2. Ms Cheyanne Kirby introduced the report to Members, which took account of all the relevant policy considerations and other material planning considerations. In conclusion, the report detailed that the proposal was acceptable in planning terms and officers recommended that the Service Director of Development and Regulation

WESTERN AREA PLANNING COMMITTEE - 1 MARCH 2023 - MINUTES

be authorised to grant planning permission for the reasons listed in the main and update reports.

3. The Chairman asked Mr Paul Goddard if he had any observations relating to the application. Mr Goddard explained that all the construction traffic would occur on a highway, which was distant from the local village. Mr Goddard expressed that concerns from residents on construction traffic were to be mitigated by the inclusion of condition three, which required traffic, where possible, to use the north entrance to the site. Mr Goddard explained that they expected around three to four 'transit van-sized' vehicles to the site per week, which was a reduction compared to previous site traffic. Mr Goddard added that larger vehicles might have to use the bridleway entrance to the site, however, residents had to be notified of when this would happen. After construction is completed the bridleway may still be utilised a few times a year for the delivery of gas. Mr Goddard concluded that the Highways Officers raised no objections.
4. In accordance with the Council's Constitution, Dr David Thomas, Parish Council Representative, Ms Patricia Poynton, objector, Mr Eashwar Krishnan, Mr Kevin Martin and Mr David Keyte, applicants/agent, Councillor James Cole, Ward Member addressed the Committee on this application.

Parish Council Representation

5. In line with the Council's Constitution, paragraph 7.14.5, the Chairman presented to the Committee that they suspend standing orders to allow Dr Thomas to speak due to late submission.
6. Councillor Jeff Beck proposed to suspend standing orders to allow Dr Thomas to speak. Councillor Benneyworth seconded the proposal. The proposal was put to vote and it was resolved to let Dr Thomas speak.
7. Dr Thomas in addressing the Committee raised the following points:
 - That Inkpen Parish Council object to the application.
 - The site had been a continuous source of stress and anxiety for residents.
 - That there had been a continuous disregard for the planning process with retrospective planning.
 - That there had been little work to help with the conservation of the site, which could be seen by the removal of a temporary boiler building and the retention of underground gas tanks. This ran contrary to government guidelines, as gas was not a renewable form of energy.
 - West Berkshire Council's Local Plan stated that there shall be no adverse effect on the character of the local area.
 - The Local Plan outlined that, where possible, renewable heat sources such as ground source heat pumps should be used in preference to gas and restricts new energy infrastructure in AONBs.
 - The Local Plan expressed that any development must be necessary, which would not apply to a steam room.
 - Gas was not the only option for a steam room, as proven Manor Farm Inkpen and Westcourt both used ground source heat pumps for their steam room.

Member Questions to the Parish Council

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8. Councillor Phil Barnett queried whether the gas was in liquid form, which was confirmed by Dr Thomas.
9. Councillor Tony Vickers questioned where in the Local Plan Dr Thomas had found his Local Plan information, as he wanted to make sure it was the current local plan. Dr Thomas explained that it was the Local Plan 2018_0.pdf, pg. 192 on the website.

Objector Representation

10. Ms Poynton in addressing the Committee raised the following points:
 - That the proposed development was excessive for a large style dwelling.
 - The main concerns were over the further works creating further noise. There was the implementation of the management plan to limit the works, however, Ms Poynton was sceptical that this promise would be kept.
 - That the previous removal of woodland between the Objector's house and Deerbourn led to the destruction of the existing habitat and that if it could be conditioned to restore the previous habitat, it would ease Ms Poynton's concern.
 - That the secrecy and use of retrospective planning left residents exposed and eroded trust and this could set a precedent in the future.

Member Questions to the Objector

11. Members did not have any questions of clarification.

Applicant/Agent Representation

12. Mr Krishnan and Me Keyte in addressing the Committee raised the following points:
 - That the applicant aimed to work with residents to resolve all potential issues. This could be shown by the withdrawal of the previous application, the removal of the ramp and the use of the north entrance.
 - Future development would only be for the gas tanks and the restoration of the field, as the rest of the works were already complete.
 - The applicant was prepared to delay work until September if necessary.
 - Mr Krishnan was not previously able to address residents' concerns, as he was situated in Hong Kong during lockdowns.
 - That they contribute to the local area by growing produce in the fields and what cannot be eaten would be donated to the local food bank amongst other philanthropic undertakings

Member Questions to the Applicant/Agent

13. Councillor Culver asked how often Mr Krishnan was in the country each year and Mr Krishnan explained that because his work was based in Hong Kong he was only in the country for 90 days due to tax implications.
14. Councillor Adrian Abbs queried as to when the retrospective work began. Mr Krishnan explained that the biggest deviation was the gas tanks, which were previously set on old oil tanks. This site was considered old, dirty and polluted, so it was decided to move the tanks. Mr Krishnan explained that other forms of heating were not considered to be as ecologically viable, as other methods would require digging large trenches, which would make the land useless for farming and rewilding. It was explained that tree surgeons had visited the site to help restore the existing trees to full health. Mr Krishnan was advised by the previous planning consultant that the

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relocation of the gas tanks would be acceptable. Mr Keyte explained that when he took over the site in August 2021 most of the building had been completed. Mr Keyte stated that in regards to the tennis court, it was relocated after August 2021 and that he did not advise the client to break the planning law.

15. Councillor Vickers questioned what the applicant's response was to their high carbon footprint. Mr Krishnan stated that he aimed to capture carbon whether that was through his funding of research or the greening of the land. Mr Krishnan reiterated that the choice of gas was the best option available.
16. Councillor Benneyworth wanted to know what concessions had been made to the residents. Mr Krishnan pointed to the use of the northern entrance instead of the bridal path, the change of timings for construction and the removal of the ramp.
17. Councillor Benneyworth asked whether the applicant was sure this could be achieved in 12 weeks of construction and Mr Keytes explained that the construction management plan had been put together by a trusted firm.
18. Councillor Barnett asked whether the applicant had tried to minimise the amount of noise and it was explained by Mr Krishnan that he was sorry for the initial level of noise and that they were aiming to keep noise to an absolute minimum.
19. Councillor Abbs queried whether the woodland discussed by Ms Poynton could be returned to its natural habitat. Mr Krishnan explained that it had been looked at by landscape experts and was deemed unsafe, however from now on he would like to do as little as possible to the surrounding area and site. Mr Keyte also noted that the site will naturally re-wild.
20. The Chairman asked whether the applicant would consider the construction starting in September, which was confirmed.

Ward Member Representation

21. Councillor James Cole in addressing the Committee raised the following points:
 - There had been large amounts of objections to the previous application and those who had caused the issues were no longer part of the project.
 - The key issue was the noise, which had been awful for neighbours, however, this had been rectified.
 - The bridle path had been used extensively, however, this had been rectified.
 - The applicant had been poorly advised by the previous agent.
 - The applicant had spoken to his neighbours to find a solution to the problem.
 - The applicant wanted to maintain and look after the site.
 - There were no excuses for the use of gas and retrospective planning.
 - Everyone involved wanted to see the work finished and there should be work allowed up to 1 May and then after 1 September.

Member Questions to the Ward Member

22. Members did not have any questions of clarification.

Member Questions to Officers

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23. Councillor Jeff Cant asked why the application in 2021 was refused and Ms Kirby responded saying that she did not work on that application, however, she highlighted the main issues as being the gas tanks and the fact the boiler needed to be outside.
24. Councillor Cant questioned whether the word retention, on page 43, meant that the works had already taken place, which was confirmed.
25. Councillor Abbs enquired into the likelihood of a refusal being overturned at appeal. Ms Kirby explained that it would be difficult to defend the decision as it would require all of the factors to be taken into consideration. Mr Niko Grigoropoulos stated that the Committee would also need to consider whether enforcement action could be taken expediently and in the Officer's view the proposed works are considered acceptable.
26. Councillor Abbs queried whether the Officer's decision was a close one and Mr Grigoropoulos explained that all applications were considered on a balance and all evidence led the Officers to suggest that the permission be granted.
27. Councillor Beck asked why the boilers had to be above ground and Mr Grigoropoulos noted that underground boilers were considered dangerous when situated near a swimming pool.
28. Councillor Benneyworth asked whether the 12-week construction window was reasonable and Ms Kirby explained that condition three stated that the building works had to be built with regard to the construction management statement.
29. Councillor Woollaston asked whether a maximum amount of vehicle movements on the bridle path could be conditioned. Ms Kirby explained that as it was a Public Right of Way (PROW) they could not condition it.
30. Councillor Vickers enquired into whether a condition could be applied to manage carbon offsetting. Mr Simon Till explained that policy CS15 stated that major development would achieve net zero reductions in CO2 and carbon emissions from 2016. Mr Till explained the issue was that there was a viable fall-back position which would not require any further work in the Officer's view. If a condition was to be implemented, it was believed to be unreasonable to implement, which could be challenged at appeal. Mr Till went further by noting that the CS15 policy was meant for entirely new developments, not as in this case, a householder application only, which was only a major application by the size of the site. Finally, Mr Till concluded with the fact that national guidance has been extremely limited in this regard which means that any condition created would become problematic.
31. Councillor Vickers queried whether the fact that most of the applications had already been approved would further complicate things.

Debate

32. Councillor Vickers commented on the ward's recent upsurge in affluent homeowners, which had built in a way many residents had felt stretched the limits of planning policy and process. The Councillor expressed discomfort in the building of such properties in the face of a climate emergency, however, the construction would be to a high standard, it would enhance the area and it was not visible from outside the site. Councillor Vickers emphasised the importance of site visits especially when the bulk of the works for the application occurred during the COVID-19 lockdowns where site visits were not taking place. The Councillor praised Mr Krishnan for working with the concerned residents and noted there would be an estate manager that would look after the property. As a result Councillor Vickers saw very little that the Committee

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- could do to go against the officer's recommendation, regardless of the retrospective nature of the application.
33. Councillor Abbs expressed disappointment in the way residents had been treated, as well as the retrospective aspect of the application, however, he could not see any convincing evidence to which this application could be refused. Councillor Abbs dictated to Mr Krishnan that biodiversity net gain constraints were the minimum standards and if this was to come forward after the introduction of the new local plan the application would be refused. The Councillor implored Mr Krishnan to push for more than the minimum. Councillor Abbs proposed to accept Officer's recommendation and grant planning permission subject to the conditions listed in the main report and update report, as well as implementing the conditions discussed such as the limiting of the building works, before 1 May 2023 and after September 1 2023. This was seconded by Councillor Woollaston.
 34. Councillor Cant recalled that in the past the Committee had been tough on retrospective applications and believed that, just because enforcement would be difficult, it should not be grounds to give consent. Councillor Cant was concerned with the precedent that would be set in regard to planning consent. The Councillor emphasised that retrospective planning was only given if the building occurred as part of a genuine consent and that this site had shown a repeated pattern of breaking planning rules.
 35. Councillor Benneyworth reiterated that he disliked the retrospective nature of the application, however, the Councillor was pleased that there had been dialogue between the applicant and residents. Councillor Benneyworth supported the condition suggested by Councillor Abbs.
 36. Councillor Culver expressed concerns over the number of gas tanks and believed it was too many for the limited amount of time spent on the property. The Councillor asked for the inclusion of a condition to include bat and barn owl boxes to support bio-diversity.
 37. The Chairman enquired into whether the start of construction could be delayed until September and reiterated Councillor Culver's condition. The Chairman emphasised that the Committee could not condition the bridleway or the gas. Finally, the Committee was asked whether any further conditions could be added to the application.
 38. Councillor Cant asked whether a condition could be added to restrict variation from the plans without consent from the Committee and Ms Kirby expressed that this could not be conditioned, however, there was an improved plan condition that would ensure that everything built had to be in line with the plans.
 39. Councillor Abbs enquired about the removal of permitted development and Mr Grigoropoulos stated that as the site was in an AONB there was little to take away.
 40. Councillor Culver asked for the ecologist to advise on the bat and barn owl boxes.
 41. Councillor Woollaston suggested that the condition around the construction works would be best implemented up to 1 May 2023 and after 1 September 2023.
 42. Mr Till mentioned that in respect of the construction period one suggestion for 1 May 2023 and after 1 September 2023 and another for only after 1 September 2023. Councillor Abbs confirmed the condition to be 1 May 2023 and after 1 September 2023

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43. Mr Till explained the barn owl, bird and bat boxes would be a condition that would require no further construction to commence on site until a schedule of the boxes had been detailed.
44. Councillor Abbs amended his proposal to accept the Officer's recommendation and grant planning permission subject to the conditions listed in the main report and update report, as well as implementing the conditions such as the limiting of the building works before 1 May 2023 and after September 1, 2023, as well as the inclusion of barn owl and bat boxes on the site. This was seconded by Councillor Woollaston.
45. The Chairman invited Members of the Committee to vote on the proposal by Councillor Abbs seconded by Councillor Woollaston to grant planning permission. At the vote, the motion was carried out.

RESOLVED that the Service Director for Development and Regulation be authorised to grant planning permission subject to the following conditions/for the following reasons:

Conditions

1. Approved plans

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

Proposed Boiler Building Plan 2291-3115 Rev A received 31st August 2022;

Lean-to Services Shed Plan 2291-3118 Rev A received 31st August 2022;

BBQ and Pergola Plan 2291-3120 Rev A received 31st August 2022;

Drainage Plan 2291-3108 Rev A received 31st August 2022;

Pool Section plan 2291-3111 Rev A received 31st August 2022;

Tennis Court Fencing and Retaining Walls Plan 2291-3121 Rev A received 31st August 2022;

Site Location Plan 2291-003 Rev B received 24th October 2022;

Site Plan 2291-3102 Rev B received 24th October 2022;

Pool Plans 2291-3105 Rev B received 24th October 2022;

Pool Roof Plan 2291-3106 Rev B received 24th October 2022;

Garden Wall Reconstruction Plan 2291-3107 Rev B received 24th October 2022;

Pool Elevations 2291-3110 Rev B received 24th October 2022;

Courtyard Retaining Walls Plan 2291-3114 Rev A received 24th October 2022;

Underground Tanks Plan 2291-3116 Rev B received 24th October 2022;

Underground Services Plan 2291-3117 Rev B received 24th October 2022;

Construction Management Plan received 31st January 2023;

Email from agent with further construction management details received 17th February 2023.

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

2. Materials

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The materials to be used in the development hereby permitted shall be as specified on the plans and/or the application forms. Where stated that materials shall match the existing, those materials shall match those on the existing development in colour, size and texture.

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

3. Construction Management Plan

The remaining non-retrospective works hereby approved development shall be undertaken in accordance with the details and provisions of the hereby approved Construction Management Plan (CMS) received 31st January 2023. For the avoidance of doubt any further works shall be carried out solely within the construction hours and all associated construction traffic shall access the site solely from the Kintbury Road entrance at the north east corner of the site as set out in the approved CMS. Any deviation from this approved arrangement, regarding the construction vehicle access route, which may necessitate the use of the Bridle Path access to the site, shall be the subject of prior discussion with the adjacent Bridle Path residents and will require the written agreement of the Local Planning Authority.

Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

4. Arboricultural Method Statement

No works hereby approved (including site clearance, any other preparatory and/or land reinstatement works and additional hedge planting) shall take place in the vicinity (i.e. within 5m of the outer limit of either the root protection area or the extent of the canopy of any of the existing trees, the subject of a group Tree Preservation Order (TPO), situated along the western (shared) boundary of the site with the adjoining Bridle Path Cottage paddock, whichever the greater, until an arboricultural method statement (AMS) 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. The reinstatement of the previously removed hedgerow along the western boundary and any other planting hereby approved shall take place within the first planting season following approval of this AMS. Reason: To ensure the protection of trees identified for retention at the site in accordance with the National Planning Policy Framework and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.

5. No construction works shall take place from 31st May to the 1st September 2023, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5 and OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

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6. The approved boiler house and grasscrete track (the remaining non-retrospective works) shall not be used until details of bird, bat and barn owl boxes, (including number specification and locations) have been submitted to and approved by the Local Planning Authority. The development shall not be used until the bird, bat and barn owl boxes have been installed/constructed in accordance with the approved details, and the bird, bat and barn owl boxes shall be retained in accordance with the approved details.

Reason: To ensure biodiversity enhancements are incorporated into the development. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.

Informatives

- 1. Proactive
- 2. CIL
- 3. I10 The applicant is advised that this planning permission does not in any way allow the Public Right of Way to be obstructed at any time during the course of the development.
- 4. I12 The applicant is advised that all visitors to the site should be made aware that they would be driving along a Public Right of Way. As a result they should drive with caution when manoeuvring into and out of the site, and should give way to pedestrians, cyclists and equestrians at all times.
- 5. I13 Nothing connected with either the development or the construction must adversely affect or encroach upon the Public Right of Way, which must remain available for public use at all time. Information on the width of the PROW can be obtained from the PROW Officer.

(The meeting commenced at 6.50 pm and closed at 8.23 pm)

CHAIRMAN

Date of Signature

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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 THURSDAY, 25 MAY 2023

Councillors Present: Adrian Abbs, Phil Barnett, Dennis Benneyworth, Patrick Clark, Heather Codling, Carolyne Culver, Clive Hooker, Tony Vickers and Howard Woollaston

Also Present: Sarah Clarke (Service Director (Strategy and Governance)) and David Cook

PART I

1. Election of the Chairman

RESOLVED that Councillor Adrian Abbs be elected as Chairman for the 2023/2024 Municipal Year.

2. Election of the Vice-Chairman

RESOLVED that Councillor Clive Hooker be elected as Vice-Chairman for the 2023/2024 Municipal Year.

(The meeting commenced at 8.09 pm and closed at 8.11 pm)

CHAIRMAN

Date of Signature

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Agenda Item 4.

Guidance on Predetermination /Predisposition

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well-established legal principle that members who make these decisions must not be biased nor must they have predetermined the outcome of the decision. This is especially in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination/Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “nonpecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Agenda Item 4.(1)

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	21/02529/COMIND Boxford Parish Council	17 th January 2022 ¹	<p>Proposed change of use from agricultural to new equine facility (racehorse training and stabling) for 45No horses, including the installation of associated car park, all storm water and foul water drainage, and new landscaping.</p> <p>The installation of new entrance gates within existing vehicular access and gallops - (Part Implemented).</p> <p>Refurbishment of existing former farm buildings, demolition of existing hay barn, erection of new stable building, horse walker and lunge pen – (Retrospective).</p> <p>Ownham Farm, Unnamed Road From Valley Road To Ownham, Ownham, Newbury, West Berkshire, RG20 8PL.</p> <p>HDR Ltd</p>

¹ Extension of time agreed until 12th July 2023

The application can be viewed on the Council's website at the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=21/02529/COMIND>

Recommendation Summary:

To **DELEGATE** to the **Development Control Manager** to **GRANT PLANNING PERMISSION** subject to the schedule of conditions (Section 8 of the report), comments from Natural England with regard to the Habitats Regulation Assessment and the completion of a Section 106 legal agreement as a planning obligation to secure the Habitats Regulation Assessment recommendations.

OR

If the legal agreement is not completed by the 21st September 2023 (3 months of the committee meeting), or such other date as agreed in writing by the Development Control Manager in consultation with the Chairman of the

Committee, to **DELEGATE** to the Development Control Manager to **REFUSE PLANNING PERMISSION**, for the reasons set out in Section 8 of the report.

Ward Members:

Councillor Dennis Benneyworth
Councillor Denise Gaines
Councillor Tony Vickers

Reason for Committee determination:

Call in by Ward Member

Committee Site Visit:

15th June 2023

Contact Officer Details

Name:	Masie Masiwa
Job Title:	Senior Planning Officer
Tel No:	01635 519111
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1. Introduction

- 1.1 This application seeks full planning permission for the change of use of the land and buildings from agricultural use to a new equine facility.
- 1.2 The proposed development will include the following elements:
 - Racehorse training and stabling for 45No horses
 - Installation of associated car park, all storm water and foul water drainage
 - Installation of new entrance gates within existing vehicular access (off High Street) and new gallops - (Part Implemented).
 - Refurbishment of existing former farm buildings, demolition of existing hay barn, erection of new stable building, horse walker and lunge pen - (Retrospective).
 - The proposal will convert existing 3No barns to facilitate new offices, reception, owners' room, lads' rooms, colour room, tack room, vets stable area, feed store, rug room and 5No separated horse stables.
 - The existing farmhouse will remain unchanged and will be used as the "Head Lads House".
 - New landscaping.
- 1.3 External horse training infrastructure is proposed within the farmyard complex area and will comprise of a horse walker, a lunge pen and new paddocks. Additional external horse training infrastructure is also proposed within the wider site area to comprise of sand rolling areas, warm-up area, new sand arena, deep sand arena and schooling ground. Along the perimeter of the site area it is proposed to install external horse training infrastructure to include walkways between gallops, carpet gallops, woodchip gallops, grass gallops and a cool-down area.
- 1.4 The proposals seek to develop the site with the removal of an existing hay barn and replacing it with a proposed stable building with a similar height of approximately 6.75 metres to the ridge line. The new stable building increases the gross internal floor space from 315 square metres to 973 square metres. Access into and out of the site would not change and would continue onto High Street. Proposed new parking provision allows for 21No car parking spaces for staff and guests located adjacent to the access and the farmyard at the centre of the proposed facility.
- 1.5 Other developments across the site will include an infiltration basin, reed bed and drainage field, new main entrance gates and soft landscaping across the site.
- 1.6 As indicated above, the proposal before members includes part implemented development and fully retrospective development.

Background and planning application history

- 1.7 The application has been delayed mainly due to the River Lambourn Nutrient Neutrality designation and before that the applicant had sought to address pre-commencement conditions as part of the application by submitting additional details to address recommended conditions.
- 1.8 The proposed development is within the catchment of the River Lambourn Special Area of Conservation (SAC) and the Nutrient Impact Zone and therefore has the

potential to affect this Habitat Site. All new development that would result in a net increase in phosphorous into the River Lambourn SAC must take into account Natural England's Advice on Nutrient Neutrality dated 16th March 2022. West Berkshire Council will need to be certain that the submitted plans will not adversely affect the integrity of the River Lambourn SAC in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations.

- 1.9 The application is therefore a complex application for which a large number of documents have been submitted and many amendments submitted over the period.
- 1.10 The site area covers approximately 14.13 hectares of existing agricultural land.
- 1.11 The existing driveway leading to the farmyard will be utilised. The existing public right of way footpath BOX/10/1 which runs to the South of the application site will be unaffected by the proposal.
- 1.12 The site comprises Ownham Farm also known as Upper Farm, which includes a large agricultural barn and smaller storage barns within a farm yard complex with an existing farmhouse.
- 1.13 The development site is located in a rural part of West Berkshire and within the North Wessex Downs, Area of Outstanding Natural Beauty (AONB).
- 1.14 Upper Farm is bordered to the North by High Street, to the East by Lambourn Road, to the South by Ownham Lane and a public right of way footpath (BOX/10/01), and to the West by the B4000. The existing main entrance to Upper Farm is from the North via High Street, which is a link road between the B4000 and Lambourn Road. A secondary entrance exists from the south via Ownham Lane, and an unclassified single-track road.
- 1.15 The nearest adjoining properties are to the southeast. Acre Cottage, No's 176 and 177 Ownham are all located approximately 50-100 metres away from the secondary farm entrance. Other properties in the vicinity are No. 126 Ownham and Old Farm located further to the East on Ownham Lane. High Street Farm is located to the North, adjacent to the nearest defined settlement of Boxford.
- 1.16 Upper Farm is a derelict former dairy farm. The farmyard complex of buildings and surrounding land has however been used for storage, arable farming and sheep grazing. There are a number of single storey traditional and modern farm buildings which make up the farmyard, as well as an existing dwelling historically linked to the farm. As indicated above, no changes are proposed to the farmhouse, which will be linked to the proposed use as the Head Lads' dwelling.
- 1.17 The site consists of extensive land up to approximately 55 hectares, which consists of open fields, hedgerows and trees to field boundaries, extensive stock proof fencing, grazing and arable land and the existing driveways and private tracks. Small wooded areas are located to the North of the farm yard and an extensive wooded area is located to the South West and is known as Ownham Plantation. In terms of topography the land steadily falls from West to East with views and glimpses towards Boxford.

2. Planning History

- 2.1 The site has no previous planning history but has an established historic agricultural use. The dairy farm operation within the buildings has ceased for a number of years,

while the wider land associated with the farm continues to be used for arable and sheep grazing.

3. Procedural Matters

- 3.1 The application has been considered under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. In accordance with regulation 7 the local planning authority is required to adopt a screening opinion as to whether the proposal constitutes EIA development, and therefore whether an environmental statement is required as part of the application, where it is considered to be schedule 2 development. Having regard to the nature and scale of the proposed development, it is not considered to constitute schedule 2 development and it is considered that there are no exceptional circumstances to indicate that an environmental statement is required.
- 3.2 A site notice was displayed on 04 November 2021 and the deadline for representations expired on 25 November 2021.
- 3.3 Amended plans and additional supporting information were received during the considerations, as outlined below:
- October 2021
 - November 2021
 - December 2021
 - January 2022
 - February 2022
 - March 2022
 - April 2022 - (including River Lambourn Nutrient Neutrality Submission)
 - May 2022 - (including River Lambourn Nutrient Neutrality Submission)
 - October 2022 - (including River Lambourn Nutrient Neutrality Submission)
 - December 2022 - (including River Lambourn Nutrient Neutrality Submission)
 - February 2023 - (including River Lambourn Nutrient Neutrality Submission)
 - March 2023 - (including River Lambourn Nutrient Neutrality Submission)
 - May 2023 - (including River Lambourn Nutrient Neutrality Submission)
- 3.4 According to the Planning Practice Guidance, where an application has been amended it is up to the local planning authority to decide whether further publicity and consultation is necessary, taking into account a number of considerations including previous objections, and the significance of the changes. These amendments have been to address specific technical concerns raised by consultees, and to amend the description as development commenced on site. The amendments have been made publically available via the Councils planning website. Given that these amendments have been in response to technical issues and did not alter the originally proposed scheme, it has not been necessary for an amended plans site notice to be displayed.
- 3.5 Community Infrastructure Levy (CIL) is a levy charged on most new development to pay for new infrastructure required as a result of the new development. CIL will be charged on residential (C3 and C4) and retail (A1 - A5) development. Whether the development is CIL liable will be confirmed by the CIL Team under separate cover.
- 3.6 More information is available at www.westberks.gov.uk/cil

4. Consultation

Statutory and non-statutory consultation

- 4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report.

Boxford Parish Council:	No objection
Welford Parish Council:	No objection
WBC Highways Authority:	No objection, subject to conditions
WBC Ecology Officer	No objection, subject to conditions, Nutrient Neutrality legal agreement and agreement from Natural England on the Habitats Regulations Assessment
WBC Archaeology Officer	No objection, subject to conditions
WBC Tree Officer	No objection, subject to conditions
WBC Local Lead Flood Authority	No objection, subject to conditions
WBC Environmental Health	No objection, subject to conditions
The Jockey Club	Support
Thames Water	No objection, subject to condition
Natural England:	No comments received
WBC Public Rights Of Way	No comments received
WBC Economic Development	No comments received
North Wessex Down AONB	No comments received

Public representations

4.2 A total of five (5) letters of representation were received, distributed as below:

Objector = 1
Supporter = 0
Impartial = 4

4.3 The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report. In summary, the following points have been raised:

Objection points:

- Concerns with regard to potential increase in local traffic
- Concerns that vehicles will use secondary access
- Residents suggest that all access points to Ownham Lane should have road signage stating a "weight restriction" and "No Access to Upper Farm".
- Secondary Ownham gate should be used only to access the existing dwelling
- concerns about vehicles parking on the verges on the unnamed road leading up to the farm
- encourage formal planning restrictions to address potential parking on verges
- Increase in noise and disturbance from the increase in traffic that would be harmful to the environment
- local lanes will be impacted as they are used for people walking dogs, young children, cyclists and ponies
- Allow Ownham villagers continuing safe route of passage from Ownham to the footpath network immediately west of the development's main entrance (towards Sole Common).

Support points:

- With a suitable planning condition regarding the secondary access contributor would support the application.
- The residents of Ownham have received written confirmation from Frances Beeton, Rural Property Manager at Sir Richard Sutton Estate Ltd, that a permissive right of way will be made connecting the public right of way BOX/F/10/1 to Boxford High Street.

5. Planning Policy

5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.

- Policies NPPF, ADPP1, ADPP5, CS1, CS5, CS9, CS10, CS12, CS13, CS14, CS16, CS17, CS18, CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policies: C1, C3, C5 and P1 of the Housing Site Allocations Development Plan Document (HSA DPD).

- Policies ENV.29, OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

5.2 The following material considerations are relevant to the consideration of this application:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- North Wessex Downs AONB Management Plan 2019-2024
- North Wessex Downs AONB Position Statement: Housing (October 2012)
- West Berkshire Council Quality Design SPD (2006)
- West Berkshire Council Planning Obligations SPD (2015)
- West Berkshire Council Landscape Character Assessment (2019)
- Manual for Streets
- The Wildlife and Countryside Act 1981 (as amended)
- The Conservation of Habitats and Species Regulations 2010
- British Horse Society's guidelines for the keeping of horses: stables, pasture acreages and fencing.

6. Appraisal

6.1 The main issues for consideration in this application are:

- Principle of development
- Design, character and appearance of the AONB area
- Onsite equestrian amenity and facilities
- Impact on quality of life
- Highways
- Flooding and drainage
- Water / Sewerage infrastructure
- Biodiversity and Green infrastructure
- Representations
- Planning Balance

Principle of development

6.2 The site is outside a defined settlement boundary. Policy ADPP1 of the West Berkshire Core Strategy allows for limited development within the countryside focused on addressing identified needs and maintaining a strong rural economy.

6.3 Policy ADDP5 (North Wessex Downs Area of Outstanding Natural Beauty) of the adopted Core Strategy sets out the strategy for development within the AONB, identifying opportunities for limited development to accommodate local needs including housing and employment, within service villages. The policy supports the equestrian and racehorse industry, recognised as contributing to both the local and national economy. Any form of development is expected to conserve and enhance the local distinctiveness, sense of place and remote setting of the AONB.

- 6.4 The North Wessex Downs AONB is home to racehorse trainers and the Lambourn area is a nationally important centre of activity for the horseracing industry second only to Newmarket. In relation to the racehorse industry within the North Wessex Downs AONB, the policy aims to prevent pressure for redevelopment of existing facilities to other uses, and fragmentation of existing sites. These pressures could lead to the decline of the industry locally, threaten the character and form of settlements, and increase pressure for replacement facilities in environmentally sensitive areas. The construction of new and modern facilities is welcome in adding to the existing provision. The conservation and enhancement of the natural beauty of the landscape is in this case one of the paramount considerations in assessing the site.
- 6.5 Policy ADDP5 states that there is particular emphasis in the Lambourn valley area on the needs of the equestrian industry and that the equestrian and racehorse industry will continue to be supported as a nationally and locally important part of the district's economy, including Lambourn's role as a nationally important centre for the racehorse industry.
- 6.6 West Berkshire Core Strategy Policy CS10 states that proposals to diversify the rural economy will be encouraged, particularly where they are located in or adjacent to Rural Service Centres and Service Villages. The site is reasonably located near Boxford, Wickham Green and Stockcross settlements and the proposed use will compliment the racehorse industry services within the area.
- 6.7 Policy CS10 further states that existing small and medium sized enterprises within the rural areas will be supported in order to provide local job opportunities and maintain the vitality of smaller rural settlements. There are benefits from the development as it will ensure the provision of important racehorse training facilities supportive of the Lambourn Valley of the Racehorse. There are numerous other horse racing training facilities in the wider area. The applicant's intention is to establish a professional racehorse training facility located at Upper Farm, Ownham,
- 6.8 At the proposed capacity the facility will employ approximately 12 staff, 9 of which would be full time and 3 would be part time. It is submitted that the part time staff will only be required during peak periods of the racing season, between October and April. The employment generation is an important benefit of the scheme.
- 6.9 The Jockey Club were consulted and they have indicated that they would support the proposal on the basis of creating training facilities to help strengthen and sustain the wider racing and racehorse training industry in the Lambourn Valley in line with Policy CS12. In addition due to its close proximity, Newbury Racecourse is likely to benefit from the proposed development as horses trained at the facility are likely to enter competitions at Newbury Racecourse.
- 6.10 Policy CS12 states that equestrian activities, related development, and the racehorse breeding and training industry are characteristic features of West Berkshire, and are of particular importance to the rural economy. The policy goes on to say development associated with equestrian activities is in keeping with the location in terms of the scale, form, impact, character and siting. The proposed facilities are therefore considered acceptable for the type of equestrian facility.

- 6.11 The development proposed would result in investment, the expansion of the existing offer of training yards and help maintain and provide for the sensitive growth of a racehorse use in the AONB and on the edge of Lambourn, a nationally important centre for the racehorse industry.
- 6.12 Specifically in relation to the residential element of the proposal, Housing Site Allocations DPD Policy C1 gives a presumption against new residential development outside of settlement boundaries, subject to prescribed exceptions. It further states planning permission for housing development will not be granted where a proposal harms or undermines the existing relationship of the settlement within the open countryside, where it does not contribute to the character and distinctiveness of a rural area, including the natural beauty of the AONB. Housing development in the countryside is restricted and resisted by development plan policies, one of the exceptions is dwellings associated with a rural worker.
- 6.13 A racing complex is likely to require accommodation on site. The existing farmhouse will be linked to the racehorse facility and will provide staff presence at the site. The submitted assessment is considered to justify the level of accommodation proposed on the site. These accommodation facilities would ensure the health and safety needs of the horses are met by a 24 hour presence on site. It would be expected that additional staff would be accommodated within the local settlements and surrounding areas. The applicant has indicated that staff would be expected to be resident in the adjacent settlements. In order to maintain the whole site as one enterprise, conditions are considered necessary and the occupation of the accommodation will be restricted by condition to rural workers associated with the training yard. In addition, and to ensure the development continues to comply with Policy C5, a condition should be attached to ensure the whole of the site will remain a single equestrian use or planning unit. The proposal is considered to comply with Policy C5 (Housing related to Rural Workers) of the HSADPD
- 6.14 The proposed development is therefore considered acceptable in principle having regard to the provisions of Core Strategy Policies ADDP1, ADDP5, CS10, CS12, Saved Local Plan Policy ENV29, and the National Planning Policy Framework subject to the detailed considerations.
- 6.15 The specific impacts of the development on the character and appearance of the area and how it functions, amenities and highway safety, green infrastructure and biodiversity must also be considered and fully justified. These are material planning considerations that carry significant weight in determining the planning application.

Design, character and appearance of the AONB area

- 6.16 The NPPF states that the Government attaches great importance to the design of the built environment and that in relation to design, Councils should always seek to secure high quality design which respects and enhances the character and appearance of the area. The NPPF further outlines that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 6.17 Policy CS14 of the Core Strategy supports the aims and objectives of the NPPF and provides the design principles for new development within West Berkshire. It is clear that developments must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area. It emphasises that design does not only relate to the appearance of the development but also the way in which it functions. The Policy has a list of criteria that developments are expected to provide which includes creating safe environments; make efficient use of land whilst respecting the character, landscape and biodiversity of the surrounding area; conserve and enhance historic and cultural assets; and provide, conserve or enhance biodiversity opportunities.
- 6.18 Policy CS19 seeks to conserve and enhance the functional components of the landscape character and environment. Particular regard has been given to the sensitivity of the area to change, and ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character.
- 6.19 Policy ADPP5 seeks to preserve local distinctiveness, sense of place and setting of the North Wessex Down AONB.
- 6.20 In respect of the special landscape designations, the NPPF indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection.
- 6.21 The site is considered appropriate for the type of development in the context of the Lambourn area racehorse industry. The main stabling building replaces one of the barns to be demolished. Officers consider that there would be no greater bulk of built form as the overall height of the building would be similar to the existing. Whilst the length of the building will be increased it is considered that the resultant building is functional and common within the district landscapes. The proposed group of buildings would be of small scale and the general approach taken is to develop the scheme with single storey buildings using traditional designs and forms.
- 6.22 Where development would affect the AONB, the impact on its special qualities and natural beauty of the landscape would have been the overriding consideration. The size, location and nature of the final proposed buildings is commensurate with the needs of the enterprise; and well related to onsite buildings and the development has the potential to have no adverse impact on the rural character and its setting within the wider AONB landscape. As indicated above, part of the development has been completed during the consideration of the application. The submitted schedule of materials has therefore been superseded, as it largely referred to the reuse of existing materials such as existing brick walls, concrete lintels etc. in addition the schedule of materials for the wider developments will also be required. The applicant will be required to submit the final schedule of materials for not only the buildings but other external surfaces.
- 6.23 A Landscape and Visual Impact Assessment (LVIA) has been submitted and reviewed by Officers. The sensitivity of the various visual receptors was limited by the tall and mature trees and hedges either located within the site or within the local countryside.

- 6.24 There are short to medium views into the site and beyond from the public right of way footpath BOXF/10/01 which runs along the southwest and western boundaries. There are also views of the site from along the B4000 to the south and the High Street to the west. According to the West Berkshire Council Landscape Character Assessment, the site lies within the Landscape Character Area LCA WH3: Wickham Woodland and Heathland Mosaic of the North Wessex Downs AONB. LCA WH3: Wickham Woodland and Heathland Mosaic is described as heavily wooded and contains small areas of heathland, with dispersed linear settlements, such as Wickham Heath, along the central B4000 ridgetop road and that it has a quiet and enclosed rural nature.
- 6.25 The application site's landscape remains predominantly agricultural land with interspersed settlement areas, alongside copses of ancient and plantation woodland. This rural nature will be retained by the proposed development.
- 6.26 Officers consider that there are elements of urbanising effect from the development, however these are considered low impact. Additionally, proposed tree planting has been increased on the development's edges, which will reduce the visibility of the development from the Public Rights of Way further to the south and enhance the existing landscaped character feature of the area.
- 6.27 The proposed lads/staff room and tack room and area of staff car parking will not be highly visible from public areas and are considered low impact.
- 6.28 The proposed development would have a comparable form and amount of development to similar facilities within the area. Furthermore, whilst an indication of external materials are provided in the submitted details, given the submission of additional information the final schedule of materials will be required for approval and can be secured by condition.

North Wessex Downs AONB Management Plan 2019 – 2024

- 6.29 The North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2019 – 2024 describes the AONB's sense of remoteness and tranquillity associated with the North Wessex Downs as fundamental to the character of the AONB and vital to the enjoyment and appreciation of the landscape. The North Wessex Downs' vision seeks to make the North Wessel Downs AONB a place where development is low-impact.
- 6.30 Dark night skies are identified as a special characteristic of the North Wessex Downs AONB. Darkness allows the majesty of the skies and stars to be seen away from the orange glow of our major urban areas. The AONB Management Plan emphasises the need to conserve and enhance the remoteness and expansive open scale of the downland landscape and to maintain the pattern of discreet villages set within a quiet rural landscape, ensuring that the views to the surrounding dramatic scarps are undamaged. Due to the development assessment as described above the proposals are considered acceptable in protecting and enhancing the character of the AONB.

Heritage Impact

- 6.31 Policy CS19 of the Core Strategy seeks the conservation and, where appropriate, enhancement of heritage assets and their settings. This approach is supported by the NPPF.
- 6.32 A Roman road line is plotted by the Historic Environment Record (HER) within the western field. The Roman road is plotted from Silchester to Cirencester, and is known as Ermin Street. The applicants have provided the Council's Archaeologist with a Written Scheme of Investigation. The Council's Archaeology Officer has assessed the proposal and confirms that subject to attaching a planning condition to secure a watching brief the proposal is considered acceptable. The creation of the rest of the equine facility with trackways and gallops has the potential to have an impact on heritage assets of archaeological interest, although this may be limited as a "No Dig" approach is used.
- 6.33 The proposed development is therefore considered to comply with Policies ADPP1, ADPP5, CS12, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026. The proposal also complies with the West Berkshire Supplementary Planning Document Series: Quality Design, and the Housing Site Allocations Development Plan Document's Policies C3 and C5 in terms of location, design and appearance.

Onsite equestrian amenity and facilities

- 6.34 Saved Local Plan Policy ENV.29 requires equestrian development to be provided with sufficient space for the ancillary storage of food stuffs, bedding, tack and related equipment on a scale appropriate to the number of horses being accommodated. It also requires that there be sufficient land with the stable to accommodate the number of horses proposed. As a racehorse training facility, the site has sufficient facilities for storage of equipment, horse welfare facilities and exercise associated with the proposed use.
- 6.35 A lunge pen, horse walker and paddocks will also add to variety of facilities to the gallops and these are considered sufficient facilities for the proposed training use. The proposed new stables are considered to be of an adequate size, in line with horse welfare guidance. As such the proposed new built form is considered to be appropriate limited development within the countryside.

Impact on quality of life

- 6.36 Planning Policy CS14 of the West Berkshire Core Strategy is of importance with regard to the potential impact upon neighbouring amenity. Policy CS14 requires new development to make a positive contribution to the quality of life in West Berkshire.
- 6.37 A small number of residential buildings currently border the site mainly to the eastern boundary. These properties are located a fair distance from the proposed working yard located within the centre of the site and the main gallops located to the west. However, the residents are not expected to experience any additional negative impact from the creation of a training facility in terms of noise, smell or light pollution.
- 6.38 With regard to noise the proposed use is synonymous in character with this part of rural West Berkshire and is considered a use in keeping with the rural character of the area. It is also not unusual for equestrian yards to be neighbouring residential properties in the rural areas and in this location. The noise from the gallops and lunge

pen from horses will be minimal. Ownham Old Farm is located closest to the gallops at approximately 36 metres. Officers consider that there would be minimal noise disturbance as the property is located at the beginning of the gallops and the horses will arrive to this area via a walkway and likely at walking pace.

- 6.39 The Environmental Health Officer has no objection and recommends that a condition is attached to any permission with regard to hours of construction work.
- 6.40 Given the scale and use, it is therefore not considered that the proposed use would result in an undue level of noise and disturbance that would materially affect the living conditions of the neighbouring properties.

Manure management

- 6.41 Any potential loss of amenity from odours has been considered, and the most likely source would be from horse manure storage. Given the distance from residential properties there would be no concerns with regard to odours from manure.

Plant, machinery and equipment

- 6.42 There are potential noise impacts from machinery and equipment associated with the type of development such as the horsewalker and any pumps. As required by standard conditions, all plant, machinery and equipment installed or operated in connection with the carrying out of the development will be required to be enclosed and attenuated such that any noise that may be generated does not exceed at any time a level of 5dB (A) below the existing background noise level, or 10dB (A) if there is a particular tonal quality when measured in accordance with BS4142:2014 at a point one metre external to the nearest residential or noise sensitive property. These measures are considered necessary particularly with regard to mitigating the effects of horse walker machinery.
- 6.43 Overall the impact on neighbouring amenity of the proposed development is considered minimal and would not have a materially harmful impact on nearby residents such that the proposal is considered to accord with Policy CS14 and the SPD on Quality Design.

Highways

- 6.44 Policies CS13 of the Core Strategy and TRANS.1 of the Saved Policies of the Local Plan relate to Highways. Road safety in West Berkshire is a key consideration for all development in accordance with Core Strategy Policy CS13.
- 6.45 The proposed development will generate relatively few daily traffic movements, which will also be seasonal, peaking when horses will be transported daily to race meetings.
- 6.46 The main access to Upper Farm is from the West onto High Street, with secondary access from the East via narrow single-track lanes linking to Lambourn Road and Coombesbury Lane. It is proposed that the main vehicular access onto the site is from the High Street with the application proposing improvements to the entrance. There are no formal pedestrian footways serving the site.

- 6.47 An Automatic Traffic Count (ATC) was carried out on High Street near the site access, recording speed and volume data over a week in August 2021.
- 6.48 The application indicates that a 2.4 x 160m vision splay at the site access can be achieved and this would be adequate for the recorded approach speeds. The splay falls within highway verge and land controlled by the applicant.
- 6.49 Parking for up to 21No cars, 2No Motorcycle stands and 3No Cycle stands would be provided.
- 6.50 Swept paths were submitted to demonstrate that the largest vehicles that will be required to access the site can adequately enter and exit the access. Passing places were also provided along the internal driveway, however the passing places pan will need to be updated given the numerous amendments.
- 6.51 Boxford Parish Council expressed concerns in respect of HGV's utilising the surrounding roads. The Council's Highways Officer has stated that there is a 7.5 tonne weight limit on the B4000 except for access for deliveries. The concern raised is that HGV's above the 7.5 tonnes may circumnavigate the weight limit by utilising more unsuitable roads in the vicinity, and they have requested exemption from this weight limit. However, the Council's Highways Officer has indicated that it was confirmed in the Transport Note that the horse transporters are to be 3.5 tonnes and so will be permitted to utilise the B4000. In addition the Transport Note also confirms that the site will only be accessed by a maximum weight limit of 7.5 tonnes and no larger vehicles will be accessing the site.
- 6.52 The Council's Highways Officer agrees that the secondary access is unsuitable for the type and frequency of vehicles that would be generated from the proposal. The Council's Highways Officer is content that the access will not be utilised for the racehorse business (other than for access to the accommodation).
- 6.53 Swept paths have been submitted demonstrating a 7.5 tonne vehicle manoeuvring into/out of the access. The access must be re-surfaced with a bonded material for a minimum of 6 metres from the edge of the carriageway to reduce the likelihood of loose material migrating onto the carriageway. This can be secured by a condition. The details submitted for the Construction method statement are acceptable.
- 6.54 The Highway Officers have also indicated that the improvements to the access entrance are acceptable and can be secured by a condition.
- 6.55 During the application, local residence sought assurances that they will still have access through the site access track, which has historically provided footpath access to the High Street and the network of public right of way footpaths to the West. This arrangement was a private arrangement as there is no public right of way running through the site access track. The residents of Ownham have indicated in correspondence that they have received written confirmation from Frances Beeton, Rural Property Manager at Sir Richard Sutton Estate Ltd, that a permissive right of way will be made connecting the public right of way BOX/F/10/1 to Boxford High Street via Ownham Plantation.

- 6.56 Policy P1 of the HSADPD provides new standards for residential parking for new development. The new parking policy sets minimum standards for residential parking provision based on location. The site is located within Zone 3 for parking purposes and the parking provided and marked out on the site plan is considered adequate to cater for the mixed use nature of the site. Electric vehicle charging points are required for the residential uses and these must be a minimum of 7kw and can be secured by a condition.
- 6.57 Overall, it is considered that the proposed development would not have a material impact on highway safety. The application is therefore considered to comply with Core Strategy Policies CS13 and TRANS.1 of the Saved Policies of the Local Plan.

Flooding and drainage

- 6.58 The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Core Strategy Policy CS16 (Flooding) applies across the district and highlights the cumulative impacts of development on flooding within the district.
- 6.59 The application site is located within Flood Zone 1, which has the lowest probability of flooding. It is essential that Sustainable Drainage Methods (SuDS) are adopted to mitigate the cumulative impacts of development on flooding within the area and the wider district. A Flood Risk Assessment and amended Drainage Strategy have been submitted and been reviewed by the Local Lead Flood Authority (LLFA).
- 6.60 The LLFA concluded that they will require additional information from the applicant to ensure the SuDS will work effectively. In addition the Local Lead Flood Authority were concerned with the environmental effects from the proposed development. Despite the submitted details and the proposed drainage infrastructure within the overall scheme, the LLFA are comfortable with a condition being attached to any planning permission.
- 6.61 Based on the considerations by the LLFA Officers and subject to the recommended conditions, it is considered that the proposal could comply with the NPPF and Policy CS16.

Water / Sewerage infrastructure

- 6.62 Thames Water is the statutory sewerage undertaker responsible for maintaining the water and waste water infrastructure in the local area. Thames Water do not raise any objections to the proposed development subject to a condition requiring that Petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- 6.63 Overall, it is considered that the development could comply with Policy CS5 of the WBCS.

Biodiversity, Geodiversity and Green Infrastructure

- 6.64 Core Strategy Policy CS17 (Biodiversity and Geodiversity) states that biodiversity and geodiversity assets across West Berkshire will be conserved and enhanced. Potential harm to biodiversity and geodiversity has been identified with the proposed development and adequate mitigation has been sought by the Council's Ecologists.
- 6.65 Policy CS17 also states that, in order to conserve and enhance the environmental capacity of the District, new development should maximise opportunities to achieve net gains in biodiversity and geodiversity in accordance with the Berkshire Biodiversity Action Plan and the Berkshire Local Geodiversity Action Plan.
- 6.66 The submitted plans indicate that the applicant has control over a much wider area within the blue line of the submitted plans. However the change of use consideration is for the area within the red line as indicated on the location plan.
- 6.67 An updated Arboriculture Impact Assessment and plans by Tree Frontiers Ltd have been submitted. These have been reviewed by the Tree Officer and are considered acceptable. These submissions were considered to cover a greater part of the site than the earlier submissions by Hillside Trees Ltd. The Council's Tree Officer also noted that the two trees highlighted for removal by the applicant had already been felled.
- 6.68 The deep sand area, gallop and various walkways are all set back as far as possible from the Root Protection Areas of the trees on the site. Additional protection measures are provided in the submission with regard to a crossing point near the veteran Oak tree number T038.
- 6.69 An updated Arboriculture Method Statement and Tree Protection Plan has also been submitted. The Council's Tree Officer has indicated that these details are acceptable and may be secured by the recommended conditions. A thorough management regime should be implemented to ensure successful establishment. The Tree Officer has no objections to the application and the submitted details subject conditions.
- 6.70 The Council's Nutrient Officer has indicated that the production of manure and urine from the stabling of 45 horses will result in significant nutrient loads.
- 6.71 There are three separate parcels of Priority Habitat within and adjacent to the application site including Ownham Plantation. These woodlands were mapped and described in the Ecological Appraisal submitted by Crossman Associates. Initially no consideration of the potential effects of the proposed development on these areas of Priority Habitat had been made. However this was addressed as the application progressed.
- 6.72 Bat surveys have been undertaken in accordance with the relevant professional practice guidance and confirmed two bat roosts: common pipistrelle and brown long-eared in two of the site buildings (exact location withheld). Mitigation in the form of alternative roost provision was required and this was provided and outlined in the updated Ecological Appraisal.

6.73 The submitted planning application has been assessed by the Council's Ecologist in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations, 2017 (known as the Habitats Regulations) which requires a Habitats Regulations Assessment (HRA) is made of all plans and projects requiring consent. West Berkshire Council is the local planning authority for the purposes of this planning application and is therefore the competent authority with duties set out under the Habitats Regulations. The Habitats Regulations Assessment is attached to the report at **Appendix 1** and has been published to the Planning Website.

Bat Mitigation Strategy

6.74 A Bat Mitigation Strategy has been submitted in support of the application. It includes detailed proposals for the creation of a replacement bat roost in one of the barns. The proposed design for the replacement bat roost will be able to support brown long-eared bats (and pipistrelle bats). This was considered satisfactory.

Lighting strategy

6.75 The submitted farmyard layout plans (drawing No. F1630/101/C) propose a range of artificial lighting to the stable yards and areas around the stables. These includes wall mounted downlights and wall mounted lighting. Further details including an isolux drawing will be required and this can be secured by condition.

Reptile Mitigation Strategy and Replacement Reptile Habitat

6.76 Replacement reptile habitat totalling approximately 0.126ha has been proposed and this has been considered satisfactory in terms of size and location. The future management of this reptile mitigation area will need to be included within an overarching Landscape Ecology Management Plan (LEMP).

Dormouse

6.77 Additional information has been submitted on the dormouse survey undertaken in connection with the planning application.

Barn Owl

6.78 Additional surveys and an assessment of the potential effects on barn owls was submitted as previously requested. The surveys have confirmed that the two barn owl nest boxes erected as replacements both had evidence of recent use including droppings and pellets. Further surveys are now required during the breeding season and will be secured by condition.

Biodiversity Net Gain (BNG)

6.79 A revised BNG has been submitted. The Ecologist has indicated that the submitted proposals for landscape and ecological mitigation and enhancement, if fully and effectively implemented will result in a biodiversity net gain in total of just over 10%. This is considered acceptable.

Nutrient Mitigation and Management

6.80 At the request of the Nutrient Neutrality Officer, the applicant submitted actual measures of phosphorous within the soils of the application site taken from a grid of representative locations reflecting the current main land uses of pasture grazing and arable cultivation and with triplicate samples from each location. This provided a baseline assessment of phosphorous levels in the soils currently.

6.81 At the direction of the Nutrient Neutrality Officer, a Nutrient Management Plan was submitted to outline the following points:

- Proposed management of all animal wastes;
- Proposed management of the land within the application site;
- Proposed monitoring of the land within the application site to demonstrate how the use of the site for the training of race horses is affecting phosphorous levels in comparison to the baseline levels established.
- Requirement for regular re-testing of soils for phosphorous (by a suitably qualified and competent person) in years 1,3 and 5 following the commencement of the use of the site for the stabling and training of horses if planning permission is granted
- Further remediation measures for phosphorous will be required if these tests show that phosphorous levels are increasing.
- The Nutrient Management Plan was required to indicate an amended plan of the proposed stable buildings to show details of the rubberised concrete flooring. In addition
- The floors of the stable buildings should include drainage gullies leading to grated drains linking them to the proposed wash down cesspool (below ground tank) so that when the stables are cleaned out the run off from the cleaning drains into the cesspool and not the surface water drainage system.
- The Nutrient Neutrality Officer directed that the contents of the cesspool must be treated as waste and removed from the site for treatment at an appropriate licensed facility as outlined in the submitted Waste Management Strategy.
- All manure must be collected from the site by a licensed waste carrier on a regular basis to be agreed. This should be a minimum of once each week for the proposed 45 horses are likely to produce between 5-6 tonnes of manure each week.
- ALL manure must be transported and deposited at a licensed waste disposal facility or one that does not require a licence and OUTSIDE the catchment of the River Lambourn SAC.
- All manure from paddocks and gallops will also need to be collected on a regular basis (at least once each week) and stored with manure from mucking out the stables and again removed from site.

6.82 A Nutrient Management Strategy has now been submitted in support of the application. The strategy is intended to demonstrate how additional nutrient loads resulting from the proposed use of the site will be neutralised.

6.83 The strategy seeks to avoid any accumulation of phosphorous by removing the main sources including horse manure and liquid wastes from the stables and manure from the gallops, both from the application site and from the catchment of the River Lambourn. The Council's Nutrient Officer has indicated that this is a satisfactory approach and one that the LPA would advocate for all new equine developments.

- 6.84 Subject to this Management Strategy being made the subject of a legally binding Section 106 planning agreement and subject to the completed Habitats Regulations Appropriate Assessment by the LPA (**Appendix 1**), being approved by Natural England as concluding that there would be no adverse effect on the integrity of the River Lambourn SAC, this is an acceptable approach to avoiding phosphorous pollution to the River Lambourn SAC and one that would enable the LPA to be able to grant planning permission.
- 6.85 The Habitats Regulations Appropriate Assessment by the LPA (**Appendix 1**) has been sent to Natural England for its agreement, as required by regulations. Natural England have been granted 21 days to provide comments, and this gives a deadline of 28th June 2023. There is, however, sufficient confidence in light of the Nutrient Neutrality Officer's assessment to bring this application to committee with the proposed recommendation.
- 6.86 A revised drainage scheme has also been submitted that proposes the separation of contaminated flows from uncontaminated run off. The contaminated flows (including those from stable yards and wash-down areas) are to be directed to a 22,000 litre below ground cesspool tank from which it can be removed from the site by tanker. The uncontaminated flows are to be directed to an infiltration basin. The effective separation of contaminated and uncontaminated flows was an essential requirement by the Council's Nutrient Officer for the control of pollution and to meet the requirements for pollution control within a Nitrate Vulnerable Zone. The Habitats Regulations Assessment measures will need to be incorporated in the final SUDS measures in discharging the SUDS condition.
- 6.87 It is important for Members to note that the recommendation before them is subject to no objections being received from Natural England in relation to the Habitats Regulations Appropriate Assessment by the LPA (**Appendix 1**). If the Appropriate Assessment is agreed, then the recommendation for approval would be engaged subject to the completion of the section 106 legal agreement to secure the Nutrient Management Strategy.
- 6.88 Considering the above, the proposed development could be compliant with the NPPF, Policies CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy (2006-2026) and the Habitats Regulations.

Representations

- 6.89 The Parish Council and members of the public have submitted representations as outlined at Section 4 of this report. The relevant planning matters raised by objectors, supporters and those impartial have been addressed within this report, as such these have not been repeated here.
- 6.90 The residents of Ownham have been granted permissive right of way by the Sir Richard Sutton Estate Ltd to connect the public right of way BOX/F/10/1 to Boxford High Street, via Ownham Plantation.

7. Planning Balance and Conclusion

- 7.1 The policies of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system and emphasises that a presumption in favour of sustainable development should be the basis for every plan, and every decision. Planning applications must result in sustainable development with consideration being given to the economic, social and environmental sustainability aspects of the proposal.
- 7.2 Officers consider that the proposal will make a contribution to the wider economic dimensions of sustainable development and will support the racehorse industry. The development will improve on the provision of existing racehorse industry facilities. With regard to the environmental role of fundamentally contributing to protecting and enhancing our natural, built and historic environment, the impact on the character and appearance of the surrounding AONB area and the River Lambourn SAC has been assessed as part of this application. Officers considered that the proposal sufficiently respects and preserves the existing natural environment through measures to protect and enhance green infrastructure, the River Lambourn SAC and biodiversity habitats. The proposal will also be in keeping with the prevailing pattern of development within the area. Officers consider that the proposal makes no significant contribution to the wider social dimensions of sustainable development. However social aspects include the provision of amenity. As the landscape amenity and neighbouring amenity aspects have been found to be acceptable the proposed development would constitute sustainable development.
- 7.3 For the above reasons, Officers consider that the proposed development is supported by the presumption in favour of sustainable development.
- 7.4 Having taken account of all the relevant development plan policy considerations and the other material considerations referred to in this report and the expert technical consultation provided, Officers consider that the development proposed is considered acceptable and is recommended for approval subject to the conditions listed at Section 8 of the report.
- 7.5 This decision has been considered using the relevant policies related to the proposal. These are; NPPF, ADPP1, ADPP5, CS1, CS5, CS9, CS10, CS12, CS13, CS14, CS16, CS17, CS18 and CS19 of the West Berkshire Core Strategy 2006 - 2026 and the Supplementary Planning Document Quality Design (June 2006).

8. Full Recommendation

- 8.1 Delegate to the Development Control Manager to GRANT PLANNING PERMISSION subject to the conditions listed below, and subject to:
- a) Satisfactory completion of the Appropriate Assessment; and
 - b) The completion of a satisfactory Section 106 Planning Obligation securing the Heads of Terms detailed below by 21st September 2023 (or such longer period that may be authorised by the Development Control Manager in consultation

with the Chairman or Vice Chairman of the Western Area Planning Committee).

- 8.2 OR, if a Section 106 Agreement is not completed, to delegate to the Development Control Manager to REFUSE PLANNING PERMISSION for the reasons listed below.

Heads of Terms for Section 106 Agreement

1. Ecological and Nutrient Neutrality Management

The Section 106 legal agreement will be required to secure the implementation of the following requirements:

1. Manure collection and removal –The applicants will undertake to ensure that all manure from the stables (and other indoor and outdoor spaces where horses are kept for training, treatment or assessment) is regularly collected and removed both from the application site but also from the Lambourn catchment by a licensed waste carrier so as to avoid any additional phosphorous leaching into groundwaters from animal wastes;
2. All contaminated waters including those from the stable floors, the manure heap, the stable yards and horse washdown facilities etc. will be drained and treated separately to the uncontaminated surface water flows from e.g. the rooves of the new buildings and the hard-standing areas. Contaminated waters will not be allowed to be infiltrated into the ground but will be conveyed through pipe networks to an impermeable lagoon from where it will be regularly removed from the site and from the Lambourn catchment by a licenced waste carrier for appropriate remedial treatment at a suitable licensed facility;
3. Areas of the application site from which manure is collected (to include all stables and yards and exercise gallops and walkways and grazing paddocks);
4. The minimum frequency of these collections (based on best practice guidance e.g. from the British Horse Society so daily removal from stables and at least twice weekly from grazing pasture);
5. Areas where it is to be temporarily stored pending removal from the application site and these must meet the following requirements:
 - temporary piles of horse manure must not be stacked where there is risk of it draining :to nearby drains in fields; within 10 metres of a watercourse, for example a stream or river or within 50 metres from a spring, well or borehole that supplies water for people to drink);
6. Collection of liquid wastes including urine from the storage lagoon;
7. Minimum frequency of collection and removal from the application site (and from the catchment of the River Lambourn) of all manures and liquid wastes from stables;
8. Requirement for all manure and liquid wastes to be removed by an EA licensed waste carrier (with proof required to be submitted and appended to the agreement and updated if the waste carrier changes);
9. Requirement for all manure and liquid wastes to be deposited or treated at a licensed waste facility that is both outside the Lambourn catchment and within West Berkshire (with proof required to be submitted and appended to the agreement and updated if the waste facility changes);
10. Baseline soil tests to establish the soil phosphorous level before the

permitted use commences and repeated soil testing to demonstrate that phosphorous levels have not significantly increased post development (need a reasonable frequency e.g. once a year for the first 3 years and then once every 3 years).

11. Annual report of the amount of manure wastes removed from the application site by the licensed waste carrier.

2. Council's Costs

- To pay the Council for the reasonable legal costs incurred in the review, negotiation, preparation and execution of the section 106 legal agreement through an administration fee

Schedule of Conditions

1. Approved plans

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

Received on 05 October 2021:

- Flood Risk Assessment and SUDS
- Landscape Visual Impact Assessment
- Proposed stable barn plans and elevations drawing No F1630/111/ REV A
- Proposed office plan and elevations drawing No F1630/112/ REV A
- Proposed Lads room and colours room plans and elevations drawing No F1630/114/ REV A

Received on 23 February 2022:

- Tree Survey
- Tree Constraints Plan
- Arboriculture implication plan
- Arboriculture impact Assessment (Tree Frontiers)
- Tree Protection Plan
- Amended Location Plan drawing No F1630/LOC/ REV D

Received on 10 March 2022:

- Tree and planting schedule 042 210
- Tree planting plan drawing No 042 250
- Planting plan 2 drawing No 042 255
- Arboriculture implications plan
- Horizontal illuminance plan REV P02
- Technical note – Lighting

Received on 28 March 2023:

- Amended proposed site plan drawing No F1630/100/ REV I
- Amended proposed site plan area 1 – farm yard drawing No F1630/101/ REV C

- Amended proposed site area 2 – lunge pen, horse walker, paddocks drawing No F1630/102/ REV C
- Amended proposed new vets area, feed store, rug room, 5No stables drawing No F1630/113/ REV B
- Amended Barn Owl Assessment
- Amended Bat Strategy
- Amended Nutrient Management Strategy
- Amended Reptile Strategy

Other documents and plans:

- Transport Statement Received on 06 October 2021
- Proposed Area 3 – deep sand arena, sand rolling circles and warm up area drawing No F1630/103/ REV A received on 06 October 2021:
- Amended Applicant Supporting Statement received on 10 December 2021:
- Historic desk based assessment Received on 14 December 2021:
- Amended proposed area 4 – main entrance gates drawing No F1630/104/ REV D received on 14 January 2022:
- Archaeology Written Scheme of Investigation received on 22 February 2022
- Construction Management Statement and site plan received on 28 February 2022:
- Storm Network Modelling received on 04 March 2022:
- Applicant response to Ecology received on 11 May 2023:

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

2 **Schedule of the materials**

Irrespective of the details submitted with the application, additional construction of the buildings and hard surfaced areas shall not take place until a schedule of the final materials to be used in the construction of the external surfaces of the buildings and hard surfaced areas hereby permitted has been submitted to and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to these matters which have been detailed in the current application or at the site. The appearance of the materials shall be provided in the schedule. Samples of the materials shall be made available for inspection on request. Thereafter the development shall be carried out in accordance with the approved materials.

Reason: To ensure that the final external materials are visually attractive and respond to local character. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026 and the Supplementary Planning Document Quality Design 2006.

3 **Use of the residential accommodation**

The use of the residential accommodation hereby permitted (Head Lads' Dwelling) shall not commence until all of the equestrian yard facilities have been completed as the first phase of development. Thereafter the residential accommodation shall be used solely in relation to the operation of the racehorse training facility at Ownham Farm, Upper Farm, Ownham, Newbury.

Reason: To ensure the accommodation is first used once the racehorse training facility has been constructed. To protect against an isolated dwelling. The dwelling shall then be used in association with the needs of the racehorse training facility. This condition is applied in accordance with the National Planning Policy Framework, Policies ADPP5, CS12 and CS14 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design 2006.

4 Dwelling occupation

The occupation of the dwelling hereby permitted (Head Lads' Dwelling) shall be limited to a person solely or mainly working (or retired through old age or ill health) in the operation of a racehorse training facility at Ownham Farm, Upper Farm, Ownham, Newbury, or a widow or widower of such a person and to any resident dependants.

Reason: A dwelling use in this location is acceptable because it provides essential accommodation for a rural worker in the locality. This condition is applied in accordance with the National Planning Policy Framework, Policies ADPP5, CS1 and CS12 of the West Berkshire Core Strategy 2006-2026, and Policies C1 and C5 of the Housing Site Allocations DPD 2006-2026.

5 Site use

The whole site known as Ownham Farm, Upper Farm, Ownham, Newbury, as outlined in the location plan red line, including all buildings (inclusive of the dwelling) hereby permitted shall remain for use as a racehorse training facility in conjunction with the racehorse industry. The buildings shall not be used as a separate residential unit, offices or any other uses within Use Class E (Use Class Order 2020), sold/leased/rented or used as a separate unit or commercial yard, and no separate curtilage shall be created other than permitted in this approval.

Reason: Any other use may not be acceptable on the site. This condition is applied in accordance with the National Planning Policy Framework, Policies ADPP5, CS12, CS13, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, Policy TRANS.1 of the West Berkshire District Local Plan Saved Policies 2007 and Supplementary Planning Document Quality Design 2006.

6 Restriction on externally stored equestrian paraphernalia

No materials, goods, plant, machinery, equipment, storage containers, waste containers or other items of equestrian paraphernalia shall be stored, processed, repaired, operated or displayed in the open land on the site.

Reason: To ensure the scale and intensity of the development is appropriate to its location in the interests of visual amenity in AONB and highways safety. This condition is applied in accordance with the National Planning Policy Framework, Policies ADPP5, CS12, CS13, CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and Policy ENV.29 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

7 Hours of work (demolition and construction)

No demolition and construction works shall take place outside the following hours:

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

8:30am to 1:00pm Saturdays;

No work shall be carried out at any time on Sundays or Bank Holidays.

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

8 **Arboricultural Method Statement**

The Arboricultural Impact Assessment and tree protection measures within Tree Frontiers Arb Impact Assessment ref: 93-OWN-RPT-AIA dated February 2022 shall be implemented in full and tree protection measures and works carried out in accordance with the Assessment.

No changes shall be made to the works unless amendments have been submitted to and approved in writing by the Local Planning Authority and shall include details of any changes to 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. This condition is applied in accordance with the objectives of the NPPF and Policies ADPP5, CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.

9 **Scheme of landscaping**

All landscape works shall be completed in accordance with the submitted plans, reference SLD drawing numbers 042 250 and 042 255 and 042 210 Plant Schedule dated Oct 2021. The approved landscaping plan shall be implemented within the first planting season following completion of development.

Any trees, shrubs or hedges planted in accordance with the approved scheme which are removed, die, or become diseased within five years from completion of this development shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality. This is to ensure the implementation of a satisfactory scheme of landscaping. This condition is applied in accordance with the NPPF and Policies ADPP1, ADPP5, CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.

10 **Boundary treatments details**

The development hereby permitted shall not be first used until the hard landscaping of the site has been completed in accordance with a hard landscaping scheme that has first been submitted to and approved in writing by the Local Planning Authority. The hard landscaping scheme shall include details of any boundary treatments (e.g. walls, fences) and hard surfaced areas (e.g. driveways, paths, patios, decking) to be provided as part of the development.

Reason: 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 applied in accordance with the National Planning Policy Framework, Policies ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026 and Supplementary Planning Document Quality Design 2006.

11 Sustainable drainage measures

Irrespective of the submitted details, no further development works 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 the WBC SuDS Supplementary Planning Document December 2018 with particular emphasis on Green SuDS and water re-use;
- b) Include flood water exceedance routes (low flow, overflow and exceedance routes), both on and off site;
- c) Include a drainage strategy for surface water run-off within the site since no discharge of surface water from the site will be accepted into the public system by the Lead Local Flood Authority. No wash-down flows are permitted to enter the surface water drainage system;
- d) Include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels. Soakage testing shall be undertaken in accordance with BRE365 methodology;
- e) Include run-off calculations based on current rainfall data models, discharge rates (based on 1 in 1 year greenfield run-off rates), and infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm +40% for climate change;
- f) Include with any design calculations an allowance for an additional 10% increase of paved areas (Urban Creep) over the lifetime of the development;
- g) Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;
- h) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil, groundwater, watercourse or drain;
- i) Ensure permeable paved areas are designed and constructed in accordance with manufacturers guidelines if using a proprietary porous paved block system; otherwise ensure any permeable areas are constructed on a permeable sub-base material, such as MoT/DoT Type 3;
- j) Show that attenuation storage measures have a 300mm freeboard above maximum design water level. Surface conveyance features must have a 150mm freeboard above maximum design water level;

k) Include a management and maintenance plan showing how the SuDS measures will be maintained and managed after completion for the lifetime of the development. This plan shall incorporate arrangements for adoption by the Council, Water and Sewage Undertaker, Maintenance or Management Company (private company or Trust) or individual property owners, or any other arrangements, including maintenance responsibilities resting with individual property owners, to secure the operation of the sustainable drainage scheme throughout its lifetime. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises;

l) 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);

m) Include measures with reference to Environmental issues which protect or enhance the ground water quality and provide new habitats where possible;

n) Include details of how surface water will be managed and contained within the site during construction works to prevent silt migration and pollution of watercourses, highway drainage and land either on or adjacent to the site;

o) Include a verification report carried out by a qualified drainage engineer demonstrating that the drainage system has been constructed as per the approved scheme (or detail any minor variations thereof), to be submitted immediately following construction to be approved by the Local Planning Authority. This Report shall include plans and details of all key drainage elements (surface water drainage network, attenuation devices/areas, flow restriction devices and outfalls) and details of any management company managing the SuDS measures thereafter.

The above sustainable drainage measures shall be implemented in accordance with the approved details before the use hereby permitted is commenced or 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 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. The 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 further development takes place. This condition is applied in accordance with the National Planning Policy Framework, Policy CS16 of the West Berkshire Core Strategy (2006-2026), Part 4 of Supplementary Planning Document Quality Design (June 2006) and SuDS Supplementary Planning Document (Dec 2018).

12 **Spoil management**

Irrespective of the submitted plans, no further development works shall take place until full details of how all spoil arising from the development will be used and/or disposed have been submitted to and approved in writing by the Local Planning Authority. These details shall:

(a) Show where any spoil to remain on the site will be deposited;

- (b) Show the resultant ground levels for spoil deposited on the site (compared to existing ground levels);
- (c) Include measures to remove all spoil (not to be deposited) from the site;
- (d) Include timescales for the depositing/removal of spoil.

All spoil arising from the development shall be used and/or disposed of in accordance with the approved details.

Reason: To ensure appropriate disposal of spoil from the development and to ensure that ground levels are not raised in order to protect the character and amenity of the AONB area. Insufficient final details are submitted with the application. This condition is applied in accordance with the National Planning Policy Framework, Policies ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026 and Supplementary Planning Document Quality Design 2006.

13 Plant, machinery and equipment

All plant, machinery and equipment installed or operated in connection with the carrying out of the development hereby approved (including for the Horse walkers) shall be so enclosed and attenuated that noise therefrom does not exceed at any time a level of 5dB[A] below the existing background noise level, or 10dB[A] if there is a particular tonal quality when measured in accordance with BS4142:2014 at a point one metre external to the nearest residential or noise sensitive property.

Reason: To protect the occupants of nearby residential properties from noise. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), and Policies OVS.5 and OVS.6 of the West Berkshire Local Plan 1991-2006 (Saved Policies 2007).

14 Access Horse related vehicles and other larger vehicles

Access to the site by horse related vehicles and other larger vehicles including horse related service, delivery and articulated vehicles shall be via the High Street entrance. None of these vehicles shall access the site from the Ownham Village secondary access. The Ownham Village secondary access shall be used only for access to the Head Lads dwelling.

Reason: In the interests of road safety and to protect the amenity of Ownham Village residents. This condition is applied in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

15 Parking and turning in accordance with plans

The use shall not commence until the vehicle parking and turning space have been surfaced, marked out and provided in accordance with the approved plans. The parking and turning space shall thereafter be kept available for parking of vehicles at all times.

Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is applied in accordance with the National Planning Policy Framework, 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).

16 Motorcycle and Cycle parking

The use shall not commence until the motorcycle and cycle parking has been provided in accordance with the approved drawings and this area shall thereafter be kept available for the parking of cycles at all times.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the parking, storage and security of motorcycles and cycles. This condition is applied in accordance with the National Planning Policy Framework, 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).

17 Construction Method Statement

The development hereby approved shall be constructed in strict accordance with Construction Method Statement and Site Plan received on 28 February 2022. The development shall be carried out in accordance with the approved details.

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

18 Passing places

The development shall not be first brought into use until details of the updated plan of the proposed passing places have been submitted to and approved in writing by the Local Planning Authority. The use shall not commence until the passing place has been constructed in accordance with the approved drawing(s).

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

19 Surfacing of access

Irrespective of the submitted plans, the surfacing arrangements for the vehicular access(es) to the highway shall ensure that bonded material is used across the entire width of the access(es) of 4.8 metres and for a distance of 6 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 applied in accordance with the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

20 Visibility splays before development

No further development works shall take place until visibility splays of 2.4 metres by 160 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 applied in accordance with

the National Planning Policy Framework and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

21 **Electric Charging Point**

The development shall not be first brought into use until details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. The use shall not commence until the electric vehicle charging points have been provided in accordance with the approved details. The charging points shall thereafter be retained and kept available for the charging of electric vehicles.

Reason: To promote the use of electric vehicle. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), Policy P1 of the Housing Site Allocation DPD and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

22 **Landscape and Ecological Management Plan (LEMP)**

No further development works shall take place on the site until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. Prior to the completion of site access works of the development. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions, together with a plan of management compartments;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Monitoring measures to demonstrate that the aims and objectives of management are being achieved including:
 - Identification of adequate baseline conditions prior to the start of development;
 - Methods for data gathering and analysis;
 - Location of monitoring and timing and frequency of monitoring;
 - Responsible persons and lines of communication.
- i) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged. The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: The LEMP is necessary to ensure the adequate protection and conservation of protected species and habitats on the site, and to achieve the specific recommendations of the submitted Ecological Assessment. A comprehensive LEMP will also ensure that interrelated landscape and ecological proposals are delivered and managed in a holistic manner. To ensure that habitats are protected and enhanced in the best way possible and that the planting can become as established as possible. The detailed LEMP is required before commencement of development because insufficiently detailed information has been submitted at the application stage, and it may include measures that require implementation during the construction phase. This condition is applied in accordance with the NPPF, Policies CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy (2006-2026).

23 Updated Ecological Appraisal

In the event that no further development has been undertaken 3 years from the date of this permission, no development shall take place until updated Ecological Appraisal for Bats, Barn Owls, Dormouse and Reptiles have been submitted to and approved in writing by the Local Planning Authority, together with any additional surveys recommended by the updated Ecological Appraisal. The updated surveys shall be used to inform the mitigation measures for this development.

Reason: If further development has not been commenced by the end of March 2026 the ecological appraisal should be updated. This is because the latest ecology assessment reports were dated March 2023 and many of the species considered during the current surveys are highly mobile and the ecology of the site is likely to change over this period. This condition is applied in accordance with the statutory provisions relating to the protected species and habitats on the site, the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

24 Bat Mitigation strategy

The development shall not be first brought into use until:

- The replacement bat roost detailed in the Bat Mitigation Strategy (21/02529/COMIND: Bat Mitigation Strategy. 22ndMarch 2023. Crossman Associates) and illustrated in drawing number F1630/113/B has been constructed and shall be retained throughout the life of the stable buildings; and
- The three further bat roosting boxes detailed in the Bat Mitigation Strategy (21/02529/COMIND: Bat Mitigation Strategy. 22ndMarch 2023. Crossman Associates) has been erected and shall be retained throughout the life of the stable buildings.

Reason: To ensure the adequate protection and conservation of protected species and habitats on the site, and to achieve the specific recommendations of the submitted Ecological Assessments and to ensure the biodiversity net gains are achieved as projected in the long term. This condition is applied in accordance with the statutory provisions relating to the protected species and habitats on the site, the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

25 Biodiversity Monitoring Strategy

Within 3 months of the date of planning permission being granted, a biodiversity monitoring strategy shall be submitted to and approved in writing by, the Local Planning Authority. The purpose of the strategy shall be to:

1. Establish the effectiveness of ecological mitigation and enhancement measures and demonstrate the level of biodiversity net gain achieved;
2. Establish the effectiveness of mitigation measures for roosting bats;
3. Establish the effectiveness of mitigation measures for barn owls;
4. Establish the effectiveness of mitigation measures for reptiles.

The content of the strategy shall include the following:

- a) Aims and objectives of monitoring to match the stated purpose above;
- b) Identification of adequate baseline conditions prior to the start of development;
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged;
- d) Methods for data gathering and analysis;
- e) Location of monitoring;
- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority every other year for the first five years (years 1,3 and 5) from the date of approval of the monitoring strategy by the Local Planning Authority. The monitoring report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: Monitoring is required to ensure that the proposed development delivers the fully functioning biodiversity outcomes set out, firstly, in the planning application and then approved in the planning consent. Monitoring is also required to: a) determine whether any conservation actions have been ineffective, leading to failure (in full or in part) to achieve stated conservation objectives, and b) identify contingencies and/or remedial measures required to ensure that biodiversity outcomes comply with the originally approved scheme. This condition is applied in accordance with the statutory provisions relating to the protected species and habitats on the site, the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

26 **Impermeable surface to the stable floors**

The development shall proceed in accordance with the concrete slab with a welded rubber matting overlay (Quattro stable mats) as outlined within the email response received 28th March 2023 included this link:

<https://www.quattrorubberandresin.co.uk/product/standard-stable-mats-rubber-flooring/>

- Revised and Updated Drainage Plan – Ref. WCI drawing 25T513-01-PO2
- The Manure Storage Facility

The manure, soiled soil, wood chips etc. will be taken to a store located to the south of the proposed new stables. The store will be a container that will be taken off site for disposal. The container will be located on a concrete slab with a centralised fall to a gully to capture any leachate and will be connected to the cesspit/slurry tank. The store and slab will also be covered with a canopy to ensure there is reduced surface water intake into the system. See attached updated WCI drawing 25T513-01.

Reason: To ensure the adequate protection and conservation of protected species and habitats on the site, and to achieve the specific recommendations of the submitted Ecological Assessments and to ensure the biodiversity net gains are achieved as projected in the long term. This condition is applied in accordance with the statutory provisions relating to the protected species and habitats on the site, the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

27 **External lighting**

The stable buildings shall not be used until a lighting design strategy for biodiversity has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a) Identify those areas / features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, e.g., for foraging.
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To ensure the conservation and enhancement of the biodiversity assets of the site, including the protection of species and habitats. Bats are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed or discouraged from using their breeding and resting places, established flyways or foraging areas. This condition is applied in accordance with the National Planning Policy Framework, the North Wessex Downs AONB Management Plan 2019-24, and Policies ADPP5, CS14, CS17 and CS19 of the West Berkshire Core Strategy (2006-2026).

28 **Reptile Mitigation strategy**

The development shall not be first brought into use until the reptile mitigation area shown in the Reptile Mitigation Strategy (21/02529/COMIND: Reptile Mitigation Strategy, 22nd March 2023. Crossman Associates) has been established as described in the reptile mitigation strategy. The reptile mitigation area shall be retained throughout the life of the authorised use.

Reason: To ensure the adequate protection and conservation of protected species and habitats on the site, and to achieve the specific recommendations of the submitted Ecological Assessments and to ensure the biodiversity net gains are

achieved as projected in the long term. This condition is applied in accordance with the statutory provisions relating to the protected species and habitats on the site, the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

29 Biodiversity Mitigation and Enhancement Plan:

The development shall not be first brought into use until a Biodiversity Mitigation and Enhancement Plan (BMEP) addressing ecological mitigation and biodiversity enhancement of the site has been submitted to and approved in writing by the local planning authority. The BMEP shall demonstrate how biodiversity losses are to be mitigated for and how biodiversity net gain is to be delivered and include the following:

- a) Purpose and conservation objectives for the proposed works including restoring and creating suitable habitat and features for reptiles, hedgehog, foraging bats and barn owls and breeding birds and replacement tree planting;
- b) Detailed design(s) and/or working method(s) to achieve stated objectives;
- c) Extent and location of proposed mitigation and enhancement measures on appropriate scale maps and plans;
- d) Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- f) Persons responsible for implementing the works;
- g) Details of initial aftercare and long term maintenance;
- h) Details for monitoring and remedial measures.

The BMEP shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that the losses of biodiversity can be compensated for and a net gain in biodiversity delivered in accordance with the requirements of the NPPF, July 2021, and that the proposed design, specification and planting can demonstrate this. This condition is applied in accordance with the statutory provisions relating to the protected species and habitats on the site, the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

30 Petrol / oil interceptors

The development shall not be first brought into use until details of petrol / oil interceptors to be fitted in all car parking areas are submitted to and approved in writing by the Local Planning Authority. The approved details shall be retained and maintained thereafter as the approved details.

Reason: To ensure the protection of the watercourses within the area from potential pollutants. The approval of this information is required before development commences because insufficient information accompanies the application and the details of petrol / oil interceptors must be in place before construction operations commence. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS16 of the West Berkshire Core Strategy (2006 - 2026), and Policies OVS.5 of the West Berkshire District Local Plan 1991 -2006 (Saved Policies 2007).

31 Programme of archaeological work

No further development work shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work (a watching brief) in accordance with the submitted written scheme of investigation by Wessex Archaeology titled 'Upper Farm, Ownham, Boxford, West Berkshire: Written Scheme of Investigation for Archaeological Watching Brief' (February 2022, 2nd Draft). The programme of work shall be first submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall incorporate and be undertaken in accordance with the approved programme.

Reason: To ensure that any significant archaeological remains that are found are adequately recorded. The condition is applied in accordance with the National Planning Policy Framework and Policy CS19 of the West Berkshire Local Plan (2006-2026).

Refusal Reason in the event the S106 is not completed

1. Refusal reason

S106 Planning Obligation Refusal Reason

The development fails to provide an appropriate scheme of works or off-site mitigation measures to mitigate the impact of the development on the River Lambourn Special Area of Conservation (SAC) and the Nutrient Impact Zone. In the absence of such, the proposed development would result in a likely significant effect on the River Lambourn SAC Site and if approved could result in an adverse effect on the integrity of this Habitats Site. Therefore, without the submission of a satisfactory scheme of mitigation (i.e. one that can demonstrate the nutrient neutrality of the proposed development) the Council cannot consider approving this application as to do so would be contrary to Regulation 63 of the Habitats Regulations.

The application is not accompanied by sufficient information in this respect, therefore the development fails to accord with the Conservation of Habitats and Species Regulations 2017 (as amended), the Written Ministerial Statement of 20 July 2022, Policy CS17 of the West Berkshire Core Strategy 2006-2026, and the National Planning Policy Framework.

Informatives

1. Approval - Objections/Support received

This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has secured and accepted what is considered to be a development which improves the

economic, social and environmental conditions of the area.

2. **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.

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.

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.

5 **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.

Written approval would be obtained from the Asset Manager, West Berkshire District Council, Environment Department, Council Offices, Market Street, Newbury, RG14 5LD or highwaymaintenance@westberks.gov.uk

6 **Incidental works affecting the highway**

Any incidental works affecting the adjoining highway shall be approved by, and a licence obtained from, the Principal Engineer (Streetworks), West Berkshire District Council, Transport & Countryside, Council Offices, Market Street, Newbury, RG14 5LD, telephone number 01635 – 503233, before any development is commenced.

7 **Thames Water - existing water mains**

There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.

<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-yourdevelopment/Working-near-or-diverting-our-pipes>

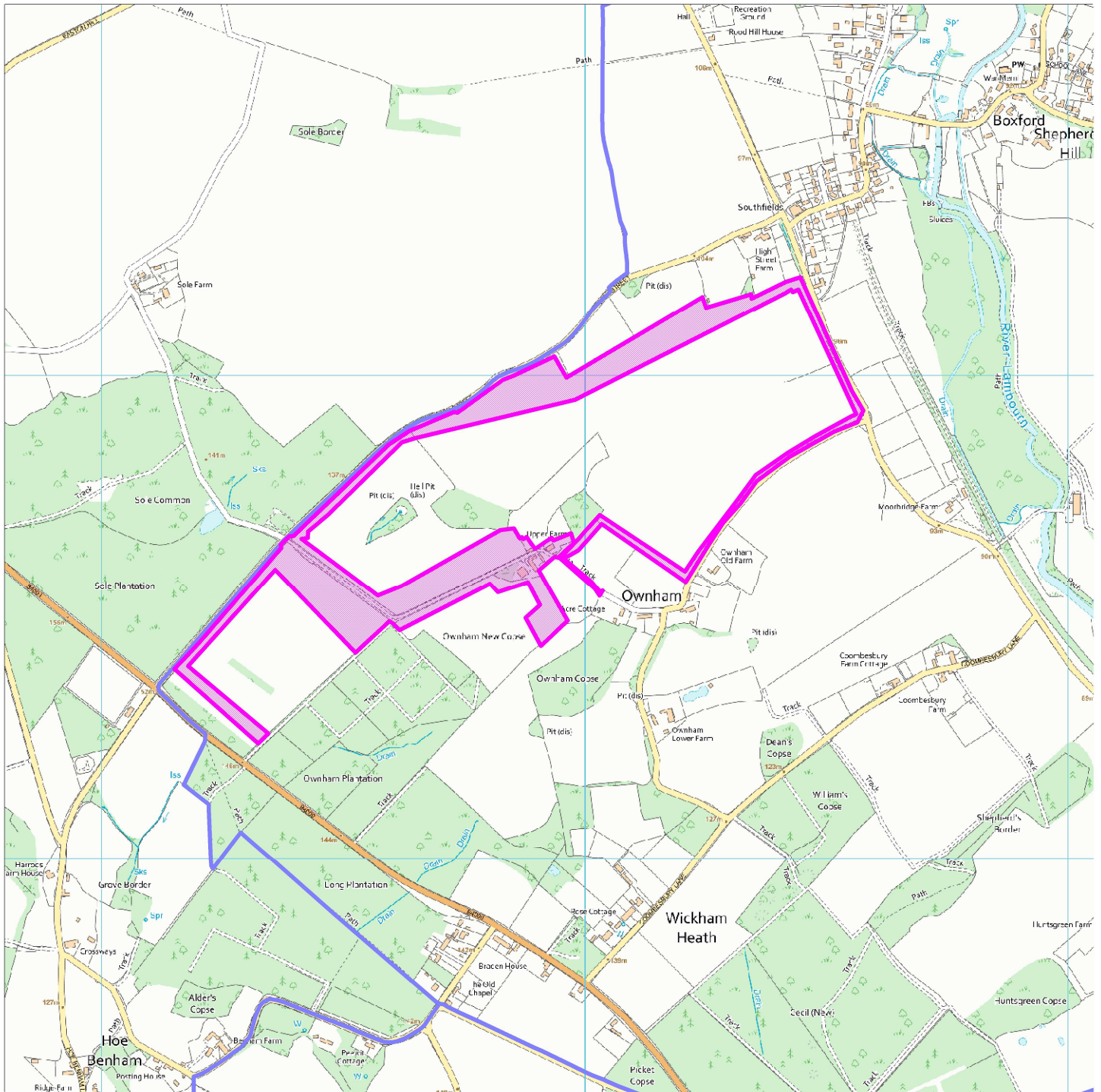
8 **Construction noise**

The attention of the applicant is drawn to the requirements of Section 60 of the Control of Pollution Act 1974 in respect of the minimisation of noise on construction

and demolition sites. Application under Section 61 of the Act, for prior consent to the works, can be made to West Berkshire Environmental Health.

For more information: email ehadvice@westberks.gov.uk, call 01635 519192, or visit <http://info.westberks.gov.uk/environmentalhealth>.

Ownham Farm, Road From Valley Road to Ownham, Ownham RG20 8PL



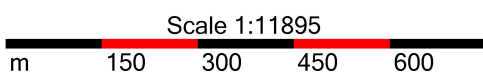
Map Centre Coordinates :

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Organisation	West Berkshire Council
Department	
Comments	Not Set
Date	08 June 2023
SLA Number	0100024151



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West Berkshire Council – Habitats Regulations Assessment. Planning Application 21/02529/COMIND. Proposed change of use from agricultural to new equine facility (racehorse training and stabling) for 45no. horses, with refurbished existing former farm buildings, demolition of existing hay barn, new stable building, new entrance gates and wall, and new landscaping.

Application Details

Application Number/Reference:	21/02529/COMIND
Application site address:	Ownham Farm, High Street, Ownham Nr. Boxford, Newbury, RG20 8PL
Application site area:	14.13ha
Summary Description of Proposed Development (as per submitted application form)	
Proposed change of use from agricultural to new equine facility (racehorse training and stabling) for 45no. horses, with refurbished existing former farm buildings, demolition of existing hay barn, new stable building, new entrance gates and wall, and new landscaping.	
Date Application Submitted:	5 th October 2021
Planning Officer:	Masie Masiwa
Officer Undertaking HRA:	Phil Lomax BSc(Hons) CBiol MRSB MCIEEM
Date of HRA:	7 th June 2023
Date of Consultation with Natural England:	

Summary and Conclusions of the HRA

The submitted planning application has been assessed in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations, 2017 (as amended - known as the Habitats Regulations) which requires a Habitats Regulations Assessment (HRA) is made of all plans and projects requiring consent. West Berkshire Council is the local planning authority for the purposes of this planning application and is therefore the competent authority with duties set out under the Habitats Regulations. Regulation 63 (5) sets the test for considering plans and projects that may affect a Habitats Site: *In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).* In making that assessment Regulation 63 (6) states that: *In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to*

which it proposes that the consent, permission or other authorisation should be given.

Potential effects from the proposed development of a new facility for the stabling and training of racehorses were considered in relation to two Habitats Sites within a 1km radius:

- River Lambourn SAC
- Kennet and Lambourn Floodplain SAC

Likely significant effects on the latter Habitats Site were screened out.

Water pollution (surface waters or groundwater) was identified as a pathway for impacts to the River Lambourn SAC resulting in likely significant effects on all the qualifying interest features. All parts of the river system are assessed as being in 'unfavourable recovering' condition largely due to the significant exceedances of phosphorous levels against agreed targets and also the river is only at moderate ecological status for macrophytes and so fails the target and is failing to meet the dissolved oxygen target. Further pollution would therefore exacerbate these existing failures.

The proposed development has the potential to result in significant production of additional phosphorous that could result in significant adverse effects on all the qualifying features as a result of:

1. The stabling and exercise of up to 45 horses.
2. Changes in land use and drainage resulting from the proposed development.

NOTE: It is important to note that this application does not seek any new net additional overnight accommodation. The existing farmhouse will be used as the accommodation base for the Head Trainer. This farmhouse connects to an existing septic tank within the application site. Proposed new staff accommodation toilet facilities will drain to an impermeable cesspool which will be regularly collected and emptied by a licensed waste carrier and taken for treatment outside the Lambourn catchment at a licensed facility. There will not therefore be any additional foul wastewater generated by the submitted proposals.

Without mitigation, it is assessed that there is a certain/near certain significant increase in phosphorous loads both into surface waters and groundwaters as a consequence of the following:

Manure from the stabling and care of horses - would potentially result in 342 kg of phosphorous per annum of which 88% (301 kg) could be predicted to leach into the groundwater on site;

Changes in land use and surface water drainage - The pre-development land use is calculated to result in 9.37 kg/TP/yr and the post-development land use as 2.29 kg/TP/yr.

The significant overall net increase in phosphorous was assessed as having adverse effects in relation to all the conservation objectives of the River Lambourn SAC.

An assessment was then made of the package of mitigation measures that has been submitted following detailed discussions between the applicants, their agents and consultants and the Council as local planning authority and competent

authority under the Habitats Regulations. These mitigation measures have been designed to address the above adverse effects on the integrity of the SAC and consist of the following:

1. Manure collection and removal –The applicants will undertake to ensure that all manure from the stables (and other indoor and outdoor spaces where horses are kept for training, treatment or assessment) is regularly collected and removed both from the application site but also from the Lambourn catchment by a licensed waste carrier so as to avoid any additional phosphorous leaching into groundwaters from animal wastes;
2. All contaminated waters including those from the stable floors, the manure heap, the stable yards and horse washdown facilities etc. will be drained and treated separately to the uncontaminated surface water flows from e.g. the rooves of the new buildings and the hard-standing areas. Contaminated waters will not be allowed to be infiltrated into the ground but will be conveyed through pipe networks to an impermeable lagoon from where it will be regularly removed from the site and from the Lambourn catchment by a licenced waste carrier for appropriate remedial treatment at a suitable licensed facility;

These mitigation measures were assessed as being likely to be highly effective and can be secured through planning conditions and legally binding planning agreements that will include monitoring requirements to act as a check that the mitigation measures are being as effective as predicted. With all these mitigation measures secured and implemented over the lifetime of the project it is calculated that the proposed development will result in a net decrease in phosphorous loads to the River Lambourn SAC of -7.08 kg/TP/yr compared to the current baseline position.

Therefore, it is concluded that the application will not result in any adverse effects on the integrity of the River Lambourn SAC if planning permission is granted, either alone or in-combination with any other plans or projects in the Lambourn catchment.

Stage 1: Screening for likely significant effects

Details of Potentially Affected Habitats Sites

Figure 1 – Habitats Sites within 1km of the application site (approx. red line boundary)

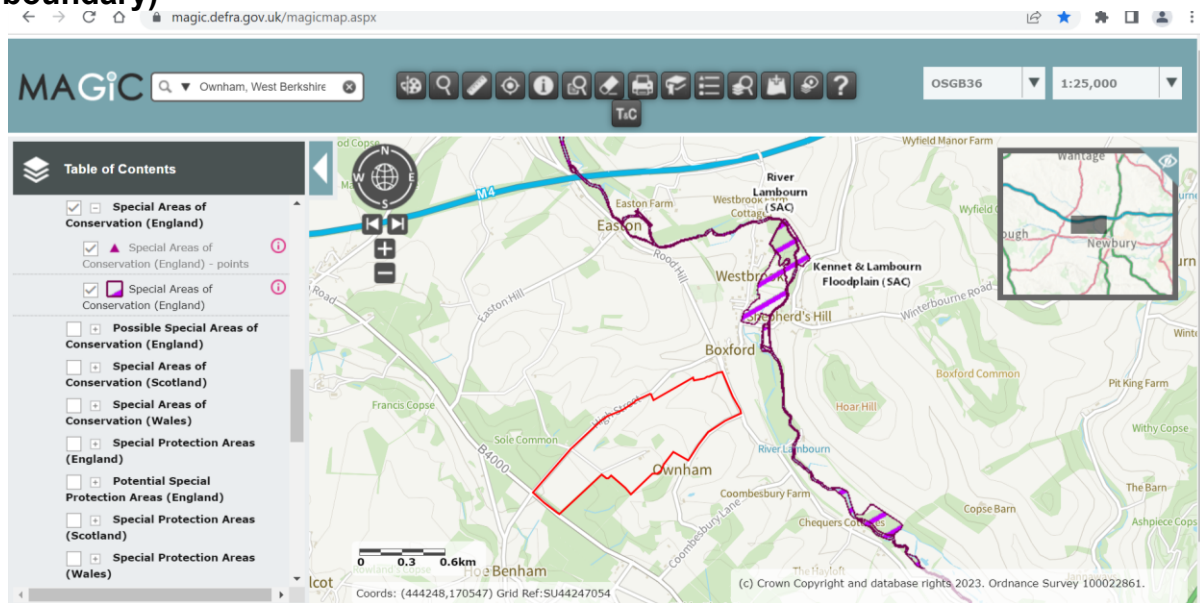


Table 1a Summary of the key features of the River Lambourn SAC

<p>Habitat Site Name: The application site lies approximately 280metres west of the River Lambourn SAC</p>	
<p>Qualifying features (habitats and species, primary and non-primary)</p>	<p>Condition assessment (from relevant SIP and component SSSI units and reasons if in unfavourable condition)</p>
<p>Annex I habitats that are a primary reason for selection of this site: <u>3260 Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation</u> The Lambourn is an example of sub-type 1 in central southern England, a chalk stream discharging into the middle reaches of the Thames system. For part of its length it is a winterbourne, drying through the summer months. It is one of the least-modified rivers of this type, with a characteristic flora dominated by pond water-crowfoot <i>Ranunculus peltatus</i>. In the downstream perennial sections <i>R. peltatus</i> is replaced by stream water-crowfoot <i>R. penicillatus</i> var. <i>pseudofluitans</i>.</p>	<p>The main threats to this SAC and its qualifying interest features are listed as follows on the Standard Data Form²:</p> <p>J02 – Pollution to groundwater H02 – Human induced changes in hydrological conditions I01 – Invasive non-native species</p> <p>Further threats and pressures listed in the Site Improvement Plan (SIP)³ as follows:</p> <ul style="list-style-type: none"> • Siltation • Water pollution • Invasive species

² <https://jncc.gov.uk/jncc-assets/SAC-N2K/UK0030257.pdf>

³ <http://publications.naturalengland.org.uk/publication/4738329056641024>

<p>Sub-type 1 has a limited distribution in the UK, being found only in those areas where chalk is present, and is therefore restricted to southern and eastern England.</p> <p>The community is characterised by pond water-crowfoot <i>Ranunculus peltatus</i> in spring-fed headwater streams (winterbournes), stream water crowfoot <i>R. penicillatus</i> ssp. <i>pseudofluitans</i> in the middle reaches, and river water-crowfoot <i>R. fluitans</i> in the downstream sections. <i>Ranunculus</i> is typically associated in the upper and middle reaches with <i>Callitriche obtusangula</i> and <i>C. platycarpa</i>¹.</p>	<ul style="list-style-type: none"> • Hydrological changes • Flood defence works • Inappropriate cutting/mowing <p>100% of the units of the River Lambourn Site of Special Scientific Interest (SSSI) that make up the SAC are assessed as being in 'unfavourable recovering' condition⁴. The river is only at moderate ecological status for macrophytes and so fails the target. Invertebrates are monitored at two sites: One is good and the other is high status - the SSSI target is for high throughout. It is considered that flows are characteristic of the river type. However, the river is failing to meet the dissolved oxygen target, but is meeting other targets for organic pollution (ammonia).</p> <p>Recent water quality measurements for the River Lambourn within the SAC show phosphorus concentrations to be exceeding the targets for all units⁵. Any nutrients entering the catchment upstream of the locations which are exceeding their nutrient targets, will make their way downstream and have the potential to further add to the current exceedance. The target standard for Soluble Reactive Phosphorous (SRP) is 20ug/l, annual mean in the headwaters and 30ug/l annual mean in all downstream units. Three year annual mean measurements indicate that the orthophosphate (soluble phosphate) in the headwaters is exceeding target by 63% and downstream by 13% to 28%.</p>
<p>Annex II species that are a primary reason for selection of this site</p> <p>1163 Bullhead <i>Cottus gobio</i> The Lambourn represents bullhead <i>Cottus gobio</i> populations inhabiting chalk streams in central southern England. Good water quality, coarse sediments and extensive beds of submerged plants again provide excellent habitat for the species.</p> <p>The bullhead <i>Cottus gobio</i> is a small bottom-living fish that inhabits a variety of rivers, streams and stony lakes. It appears to favour fast-flowing, clear shallow water with a hard substrate (gravel/cobble/pebble) and is frequently found in the headwaters of upland streams. However, it also occurs in lowland situations on softer substrates so long as the water is well-</p>	<p>See above.</p> <p>Water Framework Directive (WFD) reports that fish are at moderate status.</p>

¹ <https://sac.jncc.gov.uk/habitat/H3260/>

⁴ <https://designatedsites.naturalengland.org.uk/ReportUnitCondition.aspx?SiteCode=S2000155&ReportTitle=River%20Lambourn%20SSSI>

⁵ <http://publications.naturalengland.org.uk/publication/6209702580191232>

oxygenated and there is sufficient cover. It is not found in badly polluted rivers ⁶ .	
Annex II species present as a qualifying feature, but not a primary reason for site selection: 1096 Brook lamprey <i>Lampetra planeri</i> The brook lamprey <i>Lampetra planeri</i> is a primitive, jawless fish resembling an eel, and is the smallest of the lampreys found in the UK. It is a non-migratory freshwater species, occurring in streams and occasionally in lakes in north-west Europe. Like other lamprey species, the brook lamprey requires clean gravel beds for spawning and soft marginal silt or sand for the ammocoete larvae. It spawns mostly in parts of the river where the current is not too strong ⁷ .	See above. WFD reports that fish are at moderate status.
Conservation objectives	
The Conservation Objectives for the SAC, against which any likely significant effects should be assessed are stated to be as follows ⁸ : Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring:	
<ul style="list-style-type: none"> • The extent and distribution of qualifying natural habitats and habitats of qualifying species • The structure and function (including typical species) of qualifying natural habitats • The structure and function of the habitats of qualifying species • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely • The populations of qualifying species, and, • The distribution of qualifying species within the site. 	

Table 1b Summary of the key features of the Kennet and Lambourn Floodplain SAC

Habitat Site Name: The application site lies approximately 400metres south west of the Kennet and Lambourn Floodplain SAC	
Qualifying features (habitats and species, primary and non-primary)	Condition assessment (from relevant SIP and component SSSI units and reasons if in unfavourable condition)
The SAC is designated for the following qualifying interest feature: Annex II species that are a primary reason for selection of this site 1016 Desmoulin's whorl snail <i>Vertigo moulinsiana</i>	The main threats to this Annex II species and its supporting wetland habitat are listed as follows on the Standard Data Form ¹¹ : A02 – Modification of cultivation practices J02- Human induced changes in hydrological condition.

⁶ <https://sac.jncc.gov.uk/species/S1163/>

⁷ <https://sac.jncc.gov.uk/species/S1096/>

⁸ <http://publications.naturalengland.org.uk/publication/5757637085888512>

¹¹ <https://sac.jncc.gov.uk/site/UK0030044>

<p>The cluster of sites selected in the Kennet and Lambourn valleys supports one of the most extensive known populations of Desmoulin's whorl snail <i>Vertigo moulinsiana</i> in the UK and is one of two sites representing the species in the south-western part of its range in the important chalk stream habitat. Integrity of the population is being maintained by taking measures, including habitat creation, to safeguard populations. The habitat occupied at this site differs from the Fenland sites in East Anglia in that it is predominantly reed sweet-grass <i>Glyceria maxima</i> swamp or tall sedges at the river margins, in ditches and in depressions in wet meadows⁹.</p> <p>Desmoulin's whorl snail <i>Vertigo moulinsiana</i> is the largest <i>Vertigo</i> species, with a shell height up to about 2.6 mm. It is restricted to calcareous wetlands, usually bordering lakes or rivers, or in fens. High humidity appears to be important in determining local distribution within sites. It normally lives on reed-grasses and sedges, such as reed sweet-grass <i>Glyceria maxima</i> and tussocks of greater pond-sedge <i>Carex riparia</i> and lesser pond-sedge <i>C. acutiformis</i>, where it feeds on the microflora, and in autumn it may ascend taller reeds and scrub. Like all Annex II <i>Vertigo</i> species, it is highly dependent on maintenance of existing local hydrological conditions¹⁰.</p>	<p>H02- Pollution to groundwater</p> <p>Further threats and pressures listed in the Site Improvement Plan (SIP)¹² as follows:</p> <ul style="list-style-type: none"> • Change in land management • Inappropriate water levels • Hydrological changes • Water pollution <p>82.89% of the units of the River Lambourn Site of Special Scientific Interest (SSSI) that make up the SAC are assessed as being in 'favourable' or 'unfavourable recovering' condition. However, 16.01% is assessed as 'unfavourable declining' status¹³. Desmoulin's whorl snail has been declining in several SSSI units based on surveys undertaken in 2011-2014 and has disappeared entirely from three units where it was previously abundant. Low water levels and resultant low soil moisture levels are implicated resulting in changes to the marsh/fen habitat required by the snails.</p>
Conservation objectives	
<p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> • The extent and distribution of the habitats of qualifying species • The structure and function of the habitats of qualifying species • The supporting processes on which the habitats of qualifying species rely • The populations of qualifying species, and, • The distribution of qualifying species within the site. 	

Summary of Potential Effects on Habitats Sites

The application site of 14.14ha lies within the larger Ownham Farm site which is still used for agriculture. Based on aerial imagery (dated 2021 at the time of the planning

⁹ <https://sac.jncc.gov.uk/species/S1016/>

¹⁰ <https://sac.jncc.gov.uk/species/S1016/>

¹² <http://publications.naturalengland.org.uk/publication/4738329056641024>

¹³ <https://designatedsites.naturalengland.org.uk/ReportConditionSummary.aspx?SiteCode=S2000109&ReportTitle=Kennet%20and%20Lambourn%20Floodplain%20SSSI>

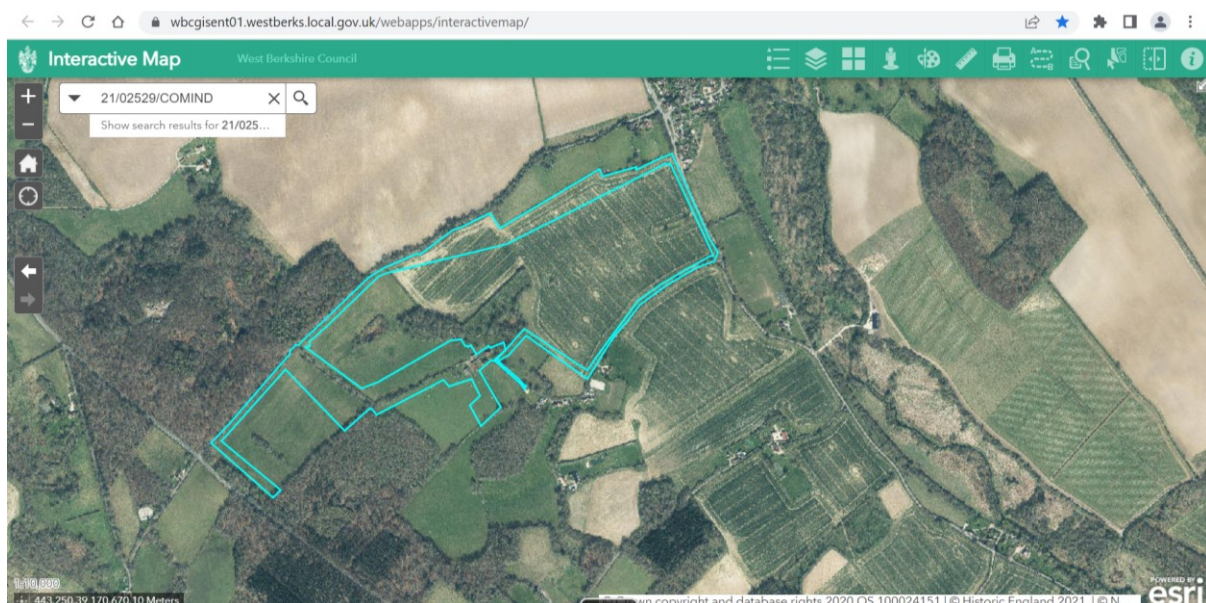
application – see Figure 2) and the submitted Nutrient Neutrality Assessment¹⁴ the application site consists of the land uses shown in Table 2.

Table 2 Summary of current and proposed land uses

Land Use Type	Existing Area (2021)	Proposed Area	Change
Urban	1.3ha	1.4ha	+0.1ha
Arable Crops	4.8ha	0	-4.8ha
Lowland Grazing	8.0ha	12.8ha ¹⁵	+4.8ha
TOTAL	14.1ha	14.2ha	

Information submitted by the applicant’s consultants¹⁶ indicates that the pasture was used for a combination of grazing mostly by sheep and hay cutting. The land is grazed with sheep for two months of the year, at a stocking rate of 40 sheep/ha and then a hay cut is taken in the summer. No information has been submitted in relation to the type of arable crops cultivated.

Figure 2 – Current agricultural land uses within the application site in 2021 (blue outline)



The proposed development is intended to provide a new facility for the stabling and training of racehorses to include:

¹⁴ Upper Farm, Ownham Nutrient Neutrality Assessment & Mitigation Strategy (NNAMS). 23rd April 2022. WCI Wastewater Engineers

¹⁵ It should be noted that most of the land will be used for the training of horses and not for grazing under the submitted plans.

¹⁶ Upper Farm, Ownham (planning reference 21/02529/COMIND). Letter dated 12th January 2023. Crossman Associates.

- Stabling for a total of 45 horses (including refurbishment of existing farm buildings and construction of new buildings)
- Site office
- Veterinary facility
- Stable yards
- Horse washdown facility
- The Trainer and Assistant Trainer (both full time) will have a permanent presence on site and be accommodated in the proposed Head Lad's House, the existing farm dwelling on site
- Horse walker
- Lunge pen
- 2 sand arenas
- 6 paddocks
- 500 metres of carpet gallops
- 1,140 metres of woodchip gallops
- 1,838 metres of walkway surfaced with recycled road planings
- Car parks
- Etc.

Care of the horses will be required 24 hours a day 7 days a week and therefore there is a requirement for permanent on site accommodation which is to be located within the existing farmhouse building.

The proposed development is located within 400metres from the two closest Habitats Sites, the River Lambourn SAC and the Kennet and Lambourn Floodplain SAC. The application site extends across two major LANDIS soil types¹⁷:

- Soilscape 18 – On the upper (westernmost) half of the site. Slowly permeable seasonally wet slightly acid but base-rich loamy and clayey soils with impeded drainage (see Figure 3a);
- Soilscape 7 - On the lower (easternmost) half of the site. Freely draining slightly acid but base-rich loamy soils that are freely draining (see Figure 3b).

¹⁷ <https://www.landis.org.uk/soilscapes/index.cfm>

Figure 3a – Distribution of Soilscape 18 (impeded drainage) within the application site

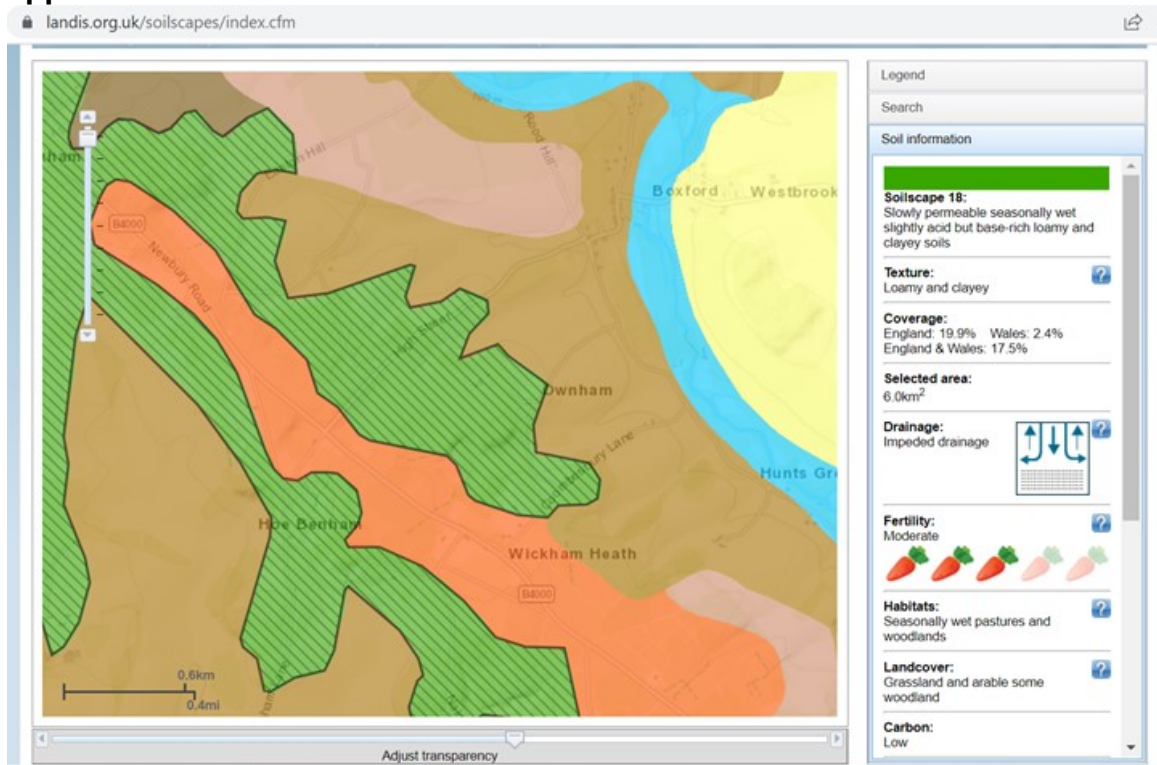
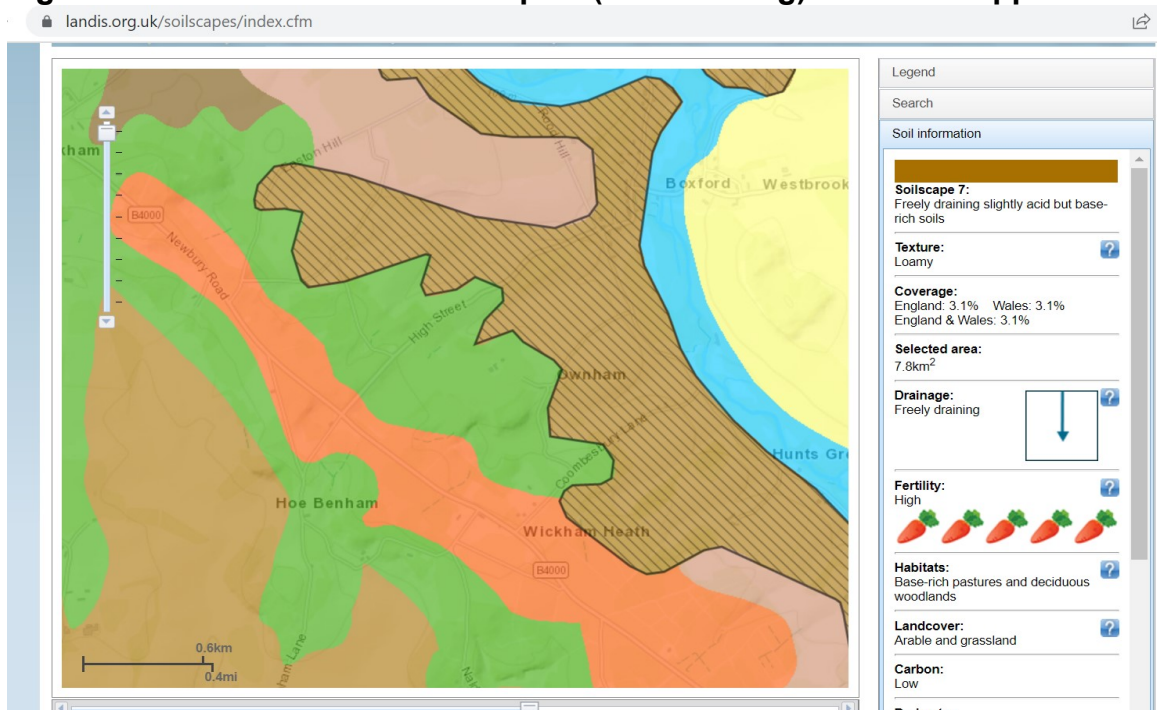


Figure 3b - Distribution of Soilscape 7 (free draining) within the application site



A surface water drainage system has been proposed that will result in the majority of the surface water run-off infiltrating into the ground via an infiltration basin.

It is planned to complete and open the proposed facility as soon as possible.

Based on the above considerations, Table 3 summarises the potential effects on Habitats Sites.

Table 3 Assessment of potential effects on Habitats Sites

Potential Effect Pathways to Habitats Sites	Construction Phase	Operational Phase	Alone	In-Combination
Habitat destruction/loss	U	U	U	U
Habitat change/degradation	U	U	U	U
Noise and vibration pollution/disturbance	U	U	U	U
Light pollution/disturbance	U	U	U	U
Air pollution	U	U	U	U
Water pollution (surface waters or groundwater)	U	P	P	P
Hydrology and water resources (changes to water levels, water flows and water volumes)	U	U	U	U
Invasive Non-Native Species (spread of or introduction of)	U	U	U	U
Barriers to species movements e.g. severance of linear habitats, loss of connecting habitats, etc. (Note that noise, vibration, light, changes to water quality or water levels etc. can all act as barriers too)	U	U	U	U
Impacts on functionally linked	U	U	U	U

Potential Effect Pathways to Habitats Sites	Construction Phase	Operational Phase	Alone	In-Combination
habitats and species ¹⁸				
Other (please specify)	None	None	None	None

NOTE: P = Potential U = Unlikely

Given the nature of the proposed development and its physical separation from the River Lambourn SAC and the Kennet and Lambourn Floodplain SAC, the great majority of potential impact pathways to these Habitats Sites can be screened out both during the construction and operational phases of the proposed development.

The only likely significant effect predicted from the proposed development on these Habitats Sites is through water pollution as a result of the increase in nutrients, most notably phosphorous, that will result from the equine facility during the operational phase. The additional nutrients are predicted to arise from the following activities:

- The stabling, care and exercise of up to 45 horses resulting in high volumes of manure and slurry containing phosphorous.
- Changes in land use and land management resulting in potential increases in phosphorous from land drainage;

West Berkshire Council as local planning authority for West Berkshire and competent authority under the Conservation of Habitats and Species Regulations, 2017 (as amended) – the Habitats Regulations – was notified by Natural England on 16th March 2022 that in relation to the River Lambourn SAC: “A plan or project will be relevant and have the potential to affect the water quality of the designated site where:

- *It creates a source of water pollution (e.g. discharge, surface run off, leaching to groundwater etc) of either a continuous or intermittent nature or has an impact on water quality (e.g. reduces dilution). AND*
- *There is hydrological connectivity with the designated site i.e. it is within the relevant surface and/or groundwater catchment. AND*
- *The designated sites interest features are sensitive to the water quality pollutant/impact from the plan/project”.*

The proposed development:

- will create a source of water pollution (as outlined above);
- is in hydrological connectivity with the River Lambourn SAC as it is within the river catchment (please see Figure 4) and within the impact risk zone for nutrients; and
- the River Lambourn SAC is sensitive to the pollutant impact as noted under the condition column of Table 1a.

¹⁸ <http://publications.naturalengland.org.uk/publication/6087702630891520>

Figure 4 - Application site (light blue area) in relation to the nutrient impact zone of the River Lambourn SAC (dark blue hatching)

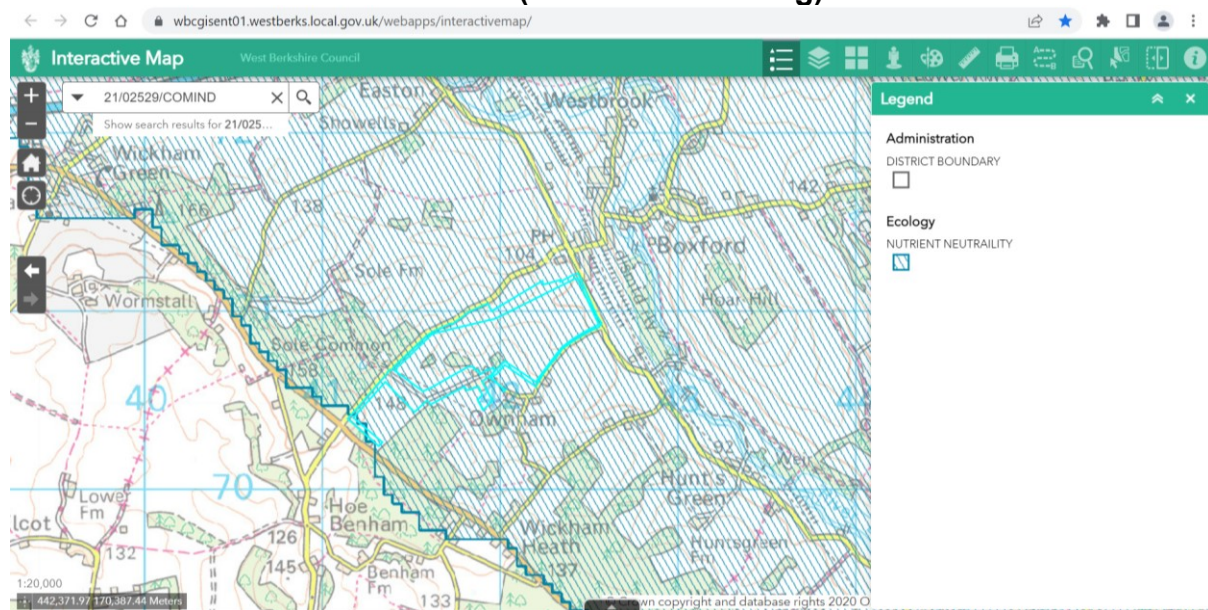


Table 3 summarises the likely significant effects of the proposed development without mitigation. European Union (EU) case law has determined that measures intended to mitigate for any harmful effects on a Habitats Site cannot be considered at the Stage 1 Screening Assessment stage of a HRA¹⁹. It is important to note that this application does not seek any new net additional overnight accommodation and therefore there will be no additional foul wastewater requiring treatment.

Table 3: Assessment of Likely Significant Effects

Habitats Site: River Lambourn SAC		
Qualifying Feature (from Table 1)	Impact Pathway (from Table 2)	Likely Significant Effects (either alone or in-combination with other plans and projects in relation to the conservation objectives from Table 1)
3260 <u>Water courses of plain to montane levels with the</u>	Water pollution (surface waters or groundwater)	Likely significant effects on: <ul style="list-style-type: none"> The structure and function (including

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<u>Ranunculion fluitantis and Callitriche-Batrachion vegetation</u>		typical species) of qualifying natural habitats; <ul style="list-style-type: none"> • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
1163 <u>Bullhead</u> <i>Cottus gobio</i>	Water pollution (surface waters or groundwater)	Likely significant effects on: <ul style="list-style-type: none"> • The structure and function of the habitats of qualifying species; • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; • The populations of qualifying species; and • The distribution of qualifying species within the site
1096 <u>Brook lamprey</u> <i>Lampetra planeri</i>	Water pollution (surface waters or groundwater)	Likely significant effects on: <ul style="list-style-type: none"> • The structure and function of the habitats of qualifying species; • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; • The populations of qualifying species; and • The distribution of qualifying species within the site
Habitats Site: Kennet and Lambourn Floodplain SAC		
Qualifying Feature (from Table 1)	Impact Pathway (from Table 2)	Likely Significant Effects (either alone or in-combination with other plans and projects in relation to the conservation objectives from Table 1)

1016 Desmoulin's whorl snail <i>Vertigo moulinsiana</i>	Water pollution (surface waters or groundwater)	No likely significant effects predicted
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Based on the results of the Stage 1 Screening Assessment likely significant effects on the following Habitats Sites are screened out from further assessment:

- Kennet and Lambourn Floodplain SAC

Based on the results of the Stage 1 Screening Assessment likely significant effects on the following Habitats Sites cannot be screened out and require further assessment:

- River Lambourn SAC.

Stage 2: Appropriate assessment

Table 4 contains a summary of the potential impacts of the proposed development on the integrity of the River Lambourn SAC without any mitigation measures.

Table 4 Appropriate assessment without mitigation

Potential Effects Pathways	Probability and Risk Level <i>(Without Mitigation)</i>	Consequences for the SAC Qualifying Features and Conservation Objectives
<p>Water pollution (to surface waters and groundwater) as a result of:</p> <ol style="list-style-type: none"> 1. The stabling and training of up to 45 horses. 2. Changes in land use and drainage resulting from the proposed development. <p>NOTE: It is important to note that this application does not seek any new net additional overnight accommodation. The existing farmhouse will be used as the accommodation base for the Head Trainer. This farmhouse connects to an existing septic tank within the application site. Proposed new</p>	<p>Certain/near certain significant increase in phosphorous loads both into surface waters and groundwaters as a consequence of the following:</p> <p><u>Manure from the stabling and care of horses</u></p> <p>Various research studies have found that horses produce large amounts of phosphorous. For example in one study, horses were found to excrete an average of 20.9 grams of phosphorus per day in their faeces, ± 1.4 grams. Excretion was smallest, 20 grams, in horses on a hay-only diet. The average daily phosphorus excretion amounted to 7.6 kg</p>	<p>3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation</p> <p>Advice from Natural England dated 16th March 2022, identified the River Lambourn SAC as being in unfavourable condition due to unnaturally high levels of phosphorous.</p> <p>Recent water quality measurements for the River Lambourn within the SAC show phosphorus concentrations to be exceeding the targets for all</p>

Potential Effects Pathways	Probability and Risk Level <i>(Without Mitigation)</i>	Consequences for the SAC Qualifying Features and Conservation Objectives
<p>staff accommodation toilet facilities will drain to an impermeable cesspool which will be regularly collected and emptied by a licensed waste carrier and taken for treatment outside the Lambourn catchment at a licensed facility. There will not therefore be any additional foul wastewater generated by the submitted proposals.</p>	<p>in a year. The soluble part of the total phosphorus in faeces accounted for about 88%. This portion is vulnerable to runoff losses and may leach into groundwaters.²⁰ On the basis of these research findings therefore, and based on the precautionary principle, taking the worst case scenario of up to 45 horses on the application site, would result in 342kg of phosphorous per annum of which 88% (301kg) could be predicted to leach into the groundwater on site. The soils on the site have been established as a mixture of: Soilscape 18 – On the upper (westernmost) half of the site (see Figure 3a). Slowly permeable seasonally wet slightly acid but base-rich loamy and clayey soils with impeded drainage; and Soilscape 7 - On the lower (easternmost) half of the site (see Figure 3b). Freely draining slightly acid but base-rich loamy soils that are freely draining.</p> <p><u>Slurry/Liquid Wastes</u> In addition to the solid manure, the stabling and treatment of up to 45 horses will also result in the production of liquid wastes including urine containing phosphorous as well as nitrogen. As the application site is within a Nitrate Vulnerable Zone (NVZ) there are strict rules on the storage and management of organic wastes such as horse manure.²¹ Horses will produce</p>	<p>units²⁵. Any nutrients entering the catchment upstream of the locations which are exceeding their nutrient targets, will make their way downstream and have the potential to further add to the current exceedance. The target standard for Soluble Reactive Phosphorous (SRP) is 20ug/l, annual mean in the headwaters and 30ug/l annual mean in all downstream units. Three year annual mean measurements indicate that the orthophosphate (P2O5 soluble phosphate) in the headwaters is exceeding target by 63% and downstream by 13% to 28%.</p> <p>The overall condition of the watercourse habitat which supports the designated features is in large part dependent on the water quality within it. The occurrence of excessive nutrients in the watercourse can impact on the competitive interactions between high plant species and between higher plant species and algae, which can result in a dominance in attached forms of algae and loss of characteristic plant species. Changes in plant growth and community composition and structure can have implications for the wider food web, and the species present. Increased nutrients and the occurrence of eutrophication can also impact on the dissolved oxygen levels in the waterbody and substrate condition, also impacting on biota within the river.</p>

²⁰ From: Saastamoinen, M.; Särkijärvi, S.; Valtonen, E. The Effect of Diet Composition on the Digestibility and Fecal Excretion of Phosphorus in Horses: A Potential Risk of P Leaching? *Animals* 2020, 10, 140. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7022629/>

²¹ <https://www.gov.uk/guidance/storing-organic-manures-in-nitrate-vulnerable-zones>

²⁵ <http://publications.naturalengland.org.uk/publication/6209702580191232>

Potential Effects Pathways	Probability and Risk Level <i>(Without Mitigation)</i>	Consequences for the SAC Qualifying Features and Conservation Objectives
	<p>large volumes of urine and this is normally removed with the solid manures (and woodchips, straw etc) when stables are cleaned out. The liquid portion of organic manure that is produced by livestock while in a yard or building is called slurry. It too contains phosphorous, though in much lower quantities than solid manure. It includes animal bedding and water that drains from areas where animals are kept. Landowners must manage liquid slurry that drains off on a waterproof surface where it can be collected. If the solid that remains can be stacked in a heap without leaking liquid, it can be treated as farmyard manure. If not, it's still slurry. If there is leakage from a stack, this must be collected and treated as slurry²².</p> <p>The local planning authority must ensure therefore in considering the submitted planning application that satisfactory provision is being made within the proposed waste management and drainage systems for the proper storage of manures and the proper treatment and collection and management of slurry. These requirements are enforced by the Environment Agency. Any slurry that is not properly collected and managed will seep into the groundwaters or the surface water drainage that flow into the nearby River Lambourn SAC.</p> <p>To comply with the requirements, the design and</p>	<p>The following adverse effects on integrity are predicted as a consequence of increased phosphorous pollution and deterioration in water quality – adverse effects on:</p> <ul style="list-style-type: none"> • The structure and function (including typical species) of qualifying natural habitats; and • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely.

²² <https://www.gov.uk/guidance/storing-organic-manures-in-nitrate-vulnerable-zones#storing-solid-manures>

Potential Effects Pathways	Probability and Risk Level <i>(Without Mitigation)</i>	Consequences for the SAC Qualifying Features and Conservation Objectives
	<p>layout must not allow uncontrolled run-off from:</p> <ul style="list-style-type: none"> • dirty yards • washing out of stables • soaking hay to suppress dust • exercise pools - due to the presence of treatment chemicals and associated sediments or solids. <p>This is in accordance with Government guidance²³.</p> <p>Liquid waste must be collected and stored in a waterproof container (such as an impermeable lagoon or a sealed effluent tank). It can then be removed or disposed of at a permitted facility or land spread.</p> <p><u>Changes in Land Use and Management</u> Set against this potential increase in phosphorous loads, the existing agricultural uses will cease within the application site boundaries (but continue within the wider farm estate). Using the current version of the Nutrient Neutrality Budget Calculator for the River Lambourn SAC²⁴ and based on the soil types and current land uses shown in Table 2 and Figures 3a and 3b, the current land uses with in the application site are calculated to be generating a total of 9.37kg/TP/yr (see Figures 5a to 5c below).</p> <p>The predicted future land use is shown in Figure 6 and as the majority of the land will be used for horse training the land use has been assessed as greenspace for the purposes of</p>	

²³ <https://www.gov.uk/guidance/keeping-horses-on-farms#horse-manure-and-other-types-of-waste> .

²⁴ <https://www.westberks.gov.uk/phosphate-calculator>

Potential Effects Pathways	Probability and Risk Level <i>(Without Mitigation)</i>	Consequences for the SAC Qualifying Features and Conservation Objectives
	<p>the calculations. The future land uses are predicted to generate 2.29 kg/TP/yr (see Figure 6 below).</p> <p>On balance and without mitigation therefore, overall the submitted application could generate an additional $301 + 2.29 - 9.37\text{kg/TP/yr} = + 293.92 \text{ kg/TP/yr}$.</p>	
As above	As above	<p>1163 Bullhead <i>Cottus gobio</i></p> <p>Changes in plant growth and community composition and structure can have implications for the wider food web, and the species present including fish such as the bullhead. Increased nutrients and the occurrence of eutrophication can also impact on the dissolved oxygen levels in the waterbody (especially during lower flows during summer) and substrate condition, impacting on fish such as the bullhead and the invertebrate food on which it depends.</p> <p>The following adverse effects on integrity are predicted as a consequence of increased phosphorous pollution and deterioration in water quality – adverse effects on:</p> <ul style="list-style-type: none"> • The structure and function of the habitats of qualifying species; • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; • The populations of qualifying species; and • The distribution of qualifying species within the site

Potential Effects Pathways	Probability and Risk Level <i>(Without Mitigation)</i>	Consequences for the SAC Qualifying Features and Conservation Objectives
As above	As above	<p>1096 Brook lamprey <i>Lampetra planeri</i> As above. They live most of their lives as ammocete larvae in burrows feeding on bacteria, algae and other types of detritus from the water and the mud. Changes in the water chemistry and BoD, etc. can all have potentially serious impacts.</p> <p>The following adverse effects on integrity are predicted as a consequence of increased phosphorous pollution and deterioration in water quality – adverse effects on:</p> <ul style="list-style-type: none"> • The structure and function of the habitats of qualifying species; • The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; • The populations of qualifying species; and • The distribution of qualifying species within the site

Figure 5a – Phosphorous export loads from current grazing and hay making regime

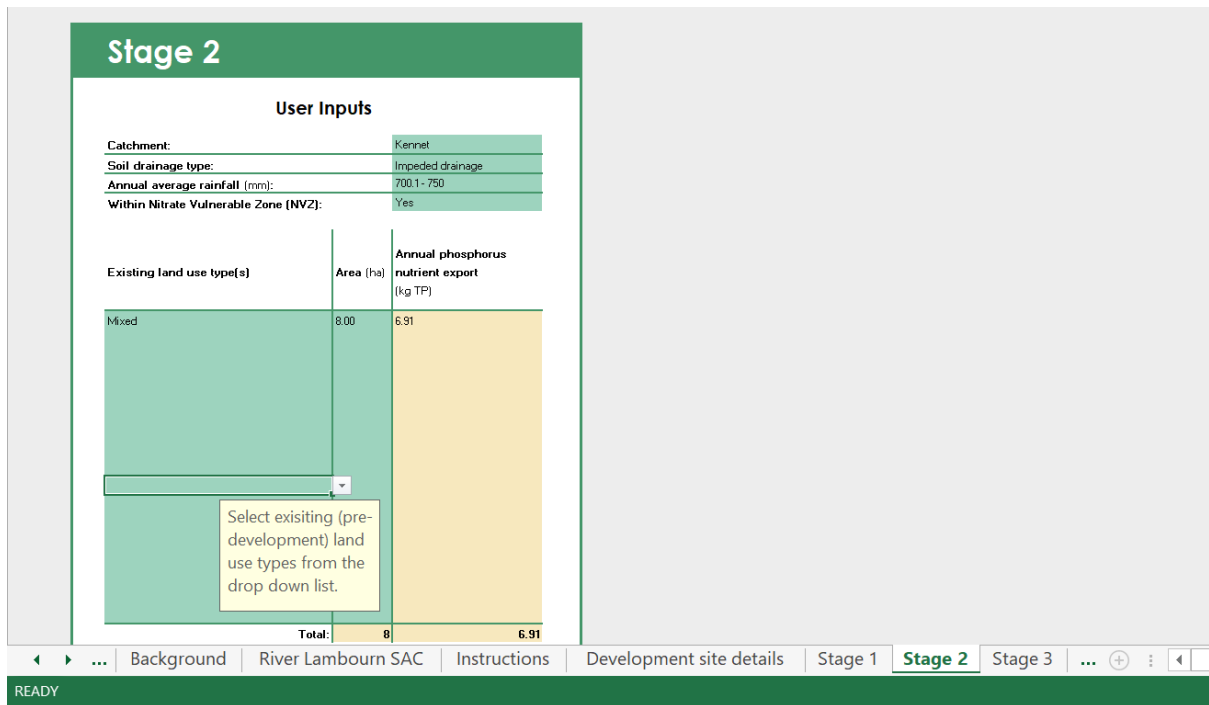


Figure 5b - Phosphorous export loads from current arable cultivation

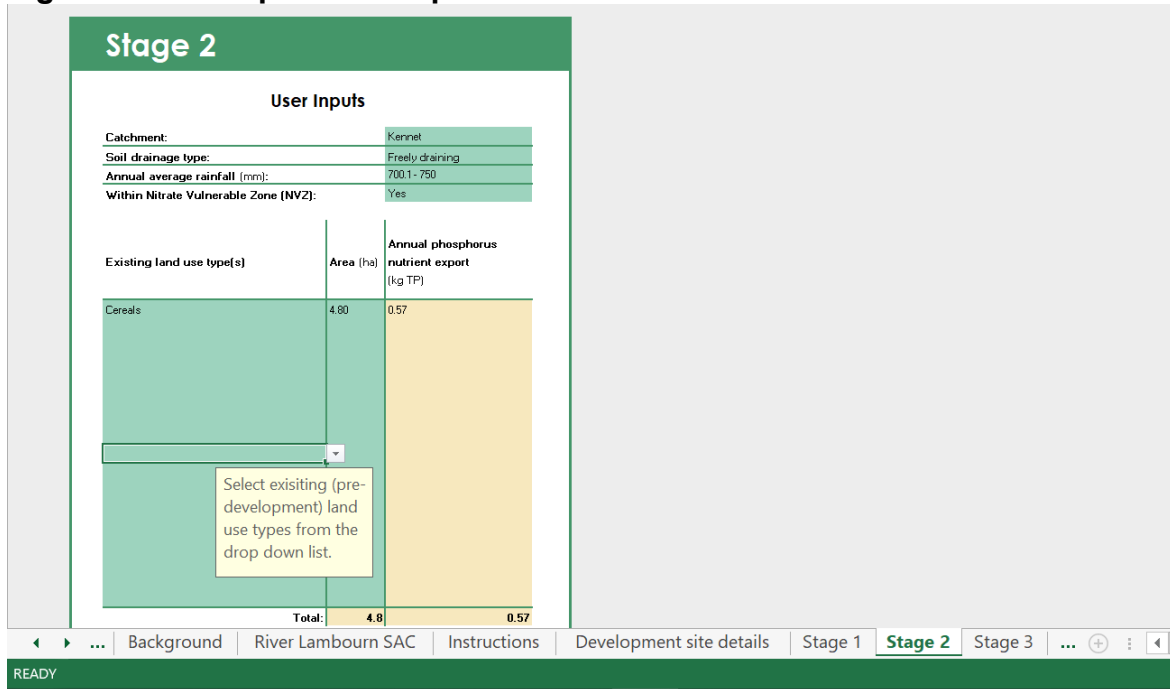


Figure 5c - Phosphorous export loads from current residential urban land use

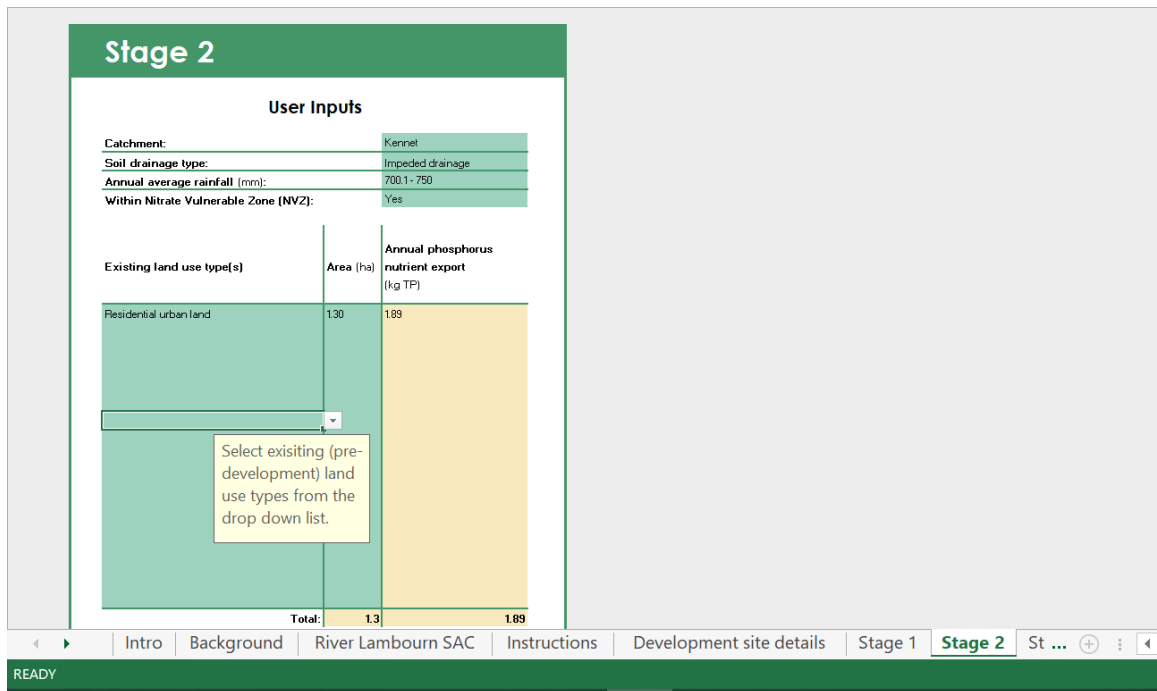
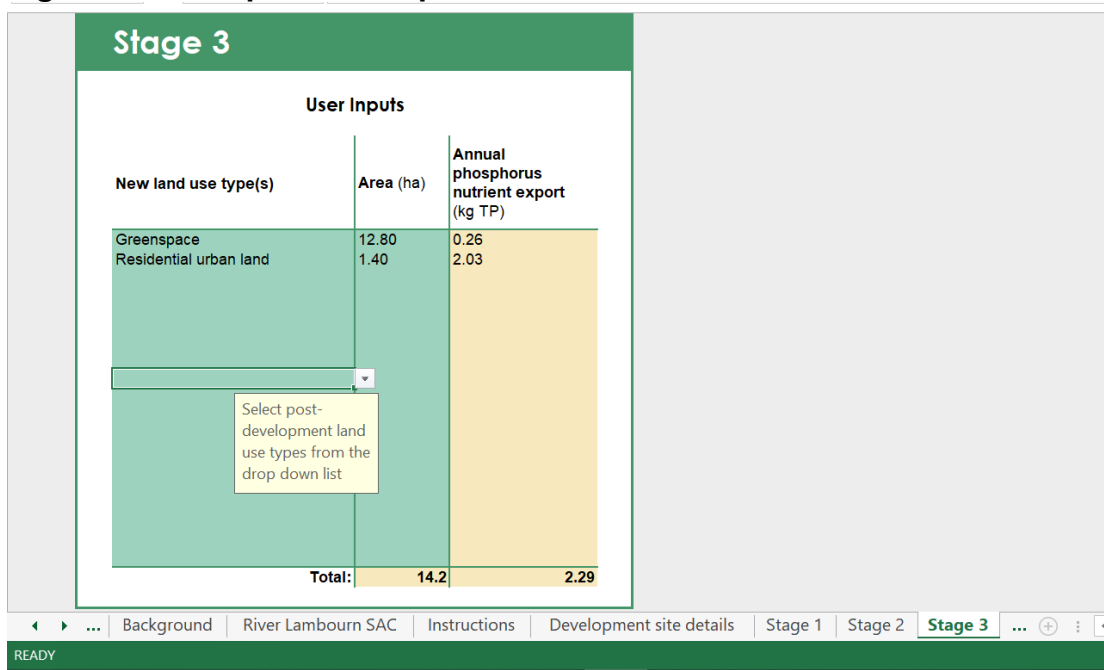


Figure 6 – Phosphorous export loads from future land use



Without mitigation there it is certain/near certain that the proposed development will have an adverse effect on the integrity of the River Lambourn SAC as a result of the significant increase in phosphorous loads both into groundwater and receiving surface waters in the Lambourn catchment.

The applicants and their agents and consultants, have in discussion with the Council as local planning authority and competent authority under the Habitats Regulations, developed a package of mitigation measures to address these predicted impacts. These mitigation measures are summarised in Table 5.

Government guidance²⁶ (based on case law) states that if mitigation is required to avoid or mitigate any potential effects on the integrity of a Habitats Site as a result of a proposed plan or project, the competent authority must be sure that the mitigation will be effective. *To do this, your assessment will need to show:*

- *how the measures would be implemented and monitored, and how long for*
- *how you would enforce the measures if you had to*
- *how certain you are that the measures would work to avoid or reduce effects on the site*
- *how long it will take for the measures to take effect*
- *the level of success you expect, or what changes you'd make if monitoring shows the measures may fail*

You must make sure that any necessary mitigation measures are put in place now and not wait for adverse effects to happen first.

The guidance goes on to state that:

If mitigation measures are needed to avoid adverse effects, you should attach conditions or take other necessary steps to make sure the measures are carried out. You can make conditions flexible. For example, you could remove conditions if it's clear from monitoring that the risk of negative effects is lower than first thought. You should consult the [relevant SNCB](#) to make sure the new conditions are still effective. You should be sure you can enforce the conditions if you need to, and that the proposer is capable of fulfilling them.

Table 5 Proposed mitigation measures

Potential Impacts (Without Mitigation)	Proposed Mitigation Measures	Reliability and Likely Effectiveness	Implementation and Securing Mechanism
Water pollution (to surface waters and groundwater) as a result of: 1. The stabling and exercising of up to 45 horses resulting in significant loads of manure and liquid wastes containing	Phosphorous containing metabolic wastes will accumulate within the application site within three ways: 1. Accumulations of manure within stables where horses are kept; 2. Accumulations of urine within stables where horses are kept;	Removing the phosphorous containing metabolic wastes (manure and urine) from the application site would not in themselves provide effective mitigation if these wastes were then deposited elsewhere	It is proposed to secure this critical mitigation through a combination of planning conditions and a planning agreement. Planning conditions will be used to secure the necessary design

²⁶ <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

Potential Impacts (Without Mitigation)	Proposed Mitigation Measures	Reliability and Likely Effectiveness	Implementation and Securing Mechanism
<p>large amounts of phosphorous.</p> <p>This could result in an additional 342kg of phosphorous per annum of which 88% (301kg) could be predicted to leach into the groundwater on site.</p>	<p>3. Accumulations of manure on the 12.8ha of greenspace land where horses will be exercised.</p> <p>The revised submitted package of mitigation measures²⁷ seeks to address all these sources of phosphorous wastes as follows:</p> <p>1. Manure collection and removal – The applicants will undertake to ensure that all manure from the stables (and other indoor and outdoor spaces where horses are kept for treatment, assessment or training including for example the horse walker) is regularly collected and removed both from the application site but also from the Lambourn catchment. Manure wastes will be collected by a licensed waste carrier and taken to a licensed waste disposal site outside the Lambourn catchment.</p> <p>2. Liquid waste collection and removal – In addition to removing the solid waste manure, the liquid wastes will also be collected and removed. The stable floors will be concrete surfaced with an impermeable rubber/resin coating²⁸ to prevent liquid wastes seeping into</p>	<p>within the Lambourn catchment as the phosphorous would still leach into the catchment groundwaters and ultimately into the River Lambourn SAC.</p> <p>Regularly collecting and removing both the manure and the liquid wastes from the application site <u>and</u> the Lambourn catchment will ensure that the phosphorous is not allowed to leach into the catchment groundwaters and therefore avoid an adverse effect on the River Lambourn SAC. Nutrient neutrality is therefore being achieved by collecting and removing the additional phosphorous at source before it can permeate the catchment.</p>	<p>features such as the drainage scheme, including the critical separation of surface water run off from contaminated run off from stables and yards.</p> <p>Section 106 of the Town and Country Planning Act, 1990 allows a local planning authority, to enter into a legally-binding agreement or planning obligation with a landowner as part of the granting of planning permission. The obligation is termed a section 106 agreement. It sets out the legally binding covenants of the applicant/landowner which can be enforced by the local planning authority.</p> <p>The S106 agreement will need to secure the implementation of the following requirements:</p> <p>1.Areas of the application site from which manure is collected (to include all stables and yards and exercise gallops and walkways and grazing paddocks);</p> <p>2.The minimum frequency of these collections (based on best practice guidance e.g. from the British Horse Society so daily removal from stables and at least twice weekly from grazing pasture);</p>

²⁷ Nutrient Management Strategy. 20th March 2023. Ian Pick Associates

²⁸ <https://www.quattrorubberandresin.co.uk/product/standard-stable-mats-rubber-flooring/>

Potential Impacts (Without Mitigation)	Proposed Mitigation Measures	Reliability and Likely Effectiveness	Implementation and Securing Mechanism
	<p>the ground. The stable floors will also be fitted with drainage gullies leading to an impermeable foul water cesspool below ground from where it will be regularly removed from the site by a licenced waste carrier for appropriate remedial treatment at a suitable licensed facility outside the Lambourn catchment.</p> <p>All contaminated waters including those from the stable floors, the manure heap, the horse walkers and water treadmill facilities etc. will be drained and treated separately to the uncontaminated surface water flows from e.g. the rooves of the new buildings and the hard-standing areas. Horse washdown wastewater will also be drained to the same cesspool for regular removal. No chemicals or shampoos will be used for horse cleaning or stable cleaning. The annual deep clean of the stables will be undertaken using steam.</p> <p>3. Greenspace/pasture management plan – The applicants will undertake to remove manure from the gallops and walkways where horses are exercised each day and from the limited grazing activities in the greenspace a</p>		<p>3. Areas where it is to be temporarily stored pending removal from the application site and these must meet the following requirements:</p> <ul style="list-style-type: none"> • temporary piles of horse manure must not be stacked where there is risk of it draining :to nearby drains in fields; within 10 metres of a watercourse, for example a stream or river or within 50 metres from a spring, well or borehole that supplies water for people to drink); <p>4. Collection of liquid wastes including urine from the storage lagoon;</p> <p>5. Minimum frequency of collection and removal from the application site (and from the catchment of the River Lambourn) of all manures and liquid wastes from stables;</p> <p>6. Requirement for all manure and liquid wastes to be removed by an EA licensed waste carrier (with proof required to be submitted and appended to the agreement and updated if the waste carrier changes);</p> <p>7. Requirement for all manure and liquid wastes to be deposited or treated at a licensed waste facility that is both outside the Lambourn catchment and within West Berkshire (with</p>

Potential Impacts (Without Mitigation)	Proposed Mitigation Measures	Reliability and Likely Effectiveness	Implementation and Securing Mechanism
	minimum of twice each week.		proof required to be submitted and appended to the agreement and updated if the waste facility changes); 8. Baseline soil tests to establish the soil phosphorous level before the permitted use commences and repeated soil testing to demonstrate that phosphorous levels have not significantly increased post development (need a reasonable frequency e.g. once a year for the first 3 years and then once every 3 years). 9. Annual report of the amount of manure wastes removed from the application site by the licensed waste carrier.
Water pollution (to surface waters and groundwater) as a result of: 2. Changes in land use and drainage resulting from the proposed development.	Changes in land use are estimated to result in a net reduction in phosphorous loads from 9.37 kg/TP/yr to 2.29 kg/TP/yr based on the calculations using the Nutrient Budget Calculator (see Figures 5a to 5c and 6 above). Therefore, no further mitigation measures are required. Only water draining from the rooves of buildings and from the car park will be drained to the surface water infiltration pool and as described above, all waste liquids will be directed to and collected within impermeable cesspools for regular removal.	No further mitigation required for changes in land use. These changes will result in a beneficial net reduction in phosphorous export loads.	

Potential Impacts (Without Mitigation)	Proposed Mitigation Measures	Reliability and Likely Effectiveness	Implementation and Securing Mechanism

Based on the likely effectiveness and deliverability of the submitted mitigation measures as summarised in Table 5, the overall appropriate assessment of the submitted development proposals is summarised in Table 6.

Table 6 Appropriate assessment with mitigation

Potential Effects Pathways	Probability and Risk Level (With Mitigation)	Consequences for the SAC Qualifying Features and Conservation Objectives
<p>Water pollution (to surface waters and groundwater) as a result of:</p> <ol style="list-style-type: none"> 1. The stabling and exercising of up to 45 horses; and 2. Changes in land use and drainage resulting from the proposed development. 	<p>Certain/near certain of no adverse effects. The removal of horse manure and liquid wastes from the application site and from the Lambourn catchment will remove the main sources of additional phosphorous resulting from this planning application.</p> <p>The proposed development and associated change in land uses will result in an overall net reduction in phosphorous between the post development land use and the pre-development land use estimated at a – 7.08 kg/TP/yr.</p>	<p>The proposed development will result in an overall improvement in water quality by reducing the amount of phosphorous within the catchment of the River Lambourn SAC. This will have beneficial effects on the achievement of the conservation objectives.</p> <p>The proposed development will not therefore have any adverse effects either alone or in combination with any other plans and projects in the Lambourn catchment.</p>

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Agenda Item 4.(2)

Item No.	Application and Parish	No.	Statutory Date	Target	Proposal, Location, Applicant
(2)	22/02695/MDOPO2 Hungerford Town Council		23 rd 2022 ¹	December	Request under section 106A subsection (1)(a) to modify the planning obligations within the section 106 legal agreement dated 16th November 2018 in relation to planning permission 16/03061/OUTMAJ - To amend the mortgagee exemption clause so that it will be satisfactory to the Registered Provider's lender to ensure that they will be able to secure the maximum amount against the Affordable Housing Units so as to facilitate the ongoing delivery of affordable housing within the area Land South Of Priory Road, Hungerford Synergy Housing Ltd

¹ Extension of time agreed with applicant until 21st July 2023

The application can be viewed on the Council's website at the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=22/02695/MDOPO2>

Recommendation Summary: To **DELEGATE** to the Development Control Manager to **GRANT APPROVAL** of the deed of variation

Ward Member(s): Councillor Dennis Benneyworth, Councillor Denise Gaines, Councillor Tony Vickers

Reason for Committee Determination: Development Control Manager Call-in

Committee Site Visit: Not required

Contact Officer Details

Name: Cheyanne Kirby
Job Title: Senior Planning Officer
Tel No: 01635 519111
Email: Cheyanne.kirby@westberks.gov.uk

1. Introduction

- 1.1 This application requests under section 106A subsection (1)(a) to modify the planning obligations within the section 106 legal agreement dated 16th November 2018 in relation to planning permission 16/03061/OUTMAJ. The application seeks to amend the mortgagee exemption clause so that it will be satisfactory to the Registered Provider's lender to ensure that they will be able to secure the maximum financial amount against the Affordable Housing Units so as to facilitate the ongoing delivery of affordable housing within the area.

2. Planning History

- 2.1 The table below outlines the relevant planning history of the application site.

Application	Proposal	Decision Date	/
16/03061/OUTMAJ	Outline planning application for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338.	Approved 30.11.2017	/
19/00911/NONMAT	Non material amendment to planning consent 16/03061/OUTMAJ - Outline planning application for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Amendment to conditions 3, 7, 8, 10, 11, 12, 13, 14, 17 and 18. to allow delivery of the main access as a first phase of development.	Approved 03.05.2019	/
19/01279/COND1	Application for approval of details reserved by Conditions (6) - Construction method statement and (9) - Access of approved application 16/03061/OUTMAJ - Outline planning application for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338.	Approved 16.09.2019	/
19/01406/RESMAJ	Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved 17.02.2020	/
19/01328/COND2	Approval of details reserved by Condition 18 - Archaeology of approved application 16/03061/OUTMAJ.	Approved 16.09.2019	/
19/03019/COND3	Application for approval of details reserved by Conditions 3 - Drainage, 7 - Fire Hydrants, 8 - Suds, 11 - Water Impact, 13 - Footway	Approved 29.05.2020	/

	and 18 - Archaeological Works, of planning permission reference 16/03061/OUTMAJ.	
20/00165/COND4	Application for approval of details reserved by condition (6) construction method statement of approved 16/03061/OUTMAJ - Outline planning application for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338.	Approved / 03.03.2020
20/00630/COND1	Application for approval of details reserved by conditions (12) arboricultural method statement and (13) supervision of approved 19/01406/RESMAJ - Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved / 29.05.2020
20/01023/MDOPO	Modification of planning obligations - Amendment to Schedule 2 Part (b), (c) and (d), of planning permission 16/03061/OUTMAJ.	Refused / 12.05.2021
20/01039/COND2	Application for approval of details reserved by condition (3) Materials, of approved 19/01406/RESMAJ - Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved / 02.07.2020
20/01638/COND3	Application for approval of details reserved by condition (3) material of approved 19/01406/RESMAJ - Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved / 05.08.2020
20/01749/COND5	Application for approval of details reserved by Conditions (12) Refuse Disposal, (14) Cycle Storage and (17) EV charging points of approved 16/03061/OUTMAJ - Outline planning application for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338.	Approved / 12.01.2021

20/01756/COND4	Application for approval of details reserved by condition (7) Open Space of approved 19/01406/RESMAJ - Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved / 05.02.2021
20/02051/COND5	Application for approval of details reserved by condition (5) Ecology surveys, of approved 19/01406/RESMAJ - Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved / 13.08.2021
20/02064/COND6	Application for approval of details reserved by condition (6) footpath provision of approved 19/01406/RESMAJ - Approval of reserved matters application following outline permission for up to 100 dwellings, public open space and landscaping, with all matters reserved except for the access to the A338. Matters to be considered: Appearance, Landscaping, Layout and Scale.	Approved / 12.11.2021

3. Procedural Matters

3.1 Site notice not required.

4. Consultation

Statutory and non-statutory consultation

4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report.

Hungerford Town Council:	Object – no erosion of social or affordable housing provision at Lancaster Park.
Housing:	No objections

Public representations

- 4.2 There is no requirement under planning legislation to publicly consult on this type of application. The application is publicly available on the Council's website. No representations have been received.

5. Planning Policy

- 5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.

- Policy CS6 of the West Berkshire Core Strategy 2006-2026 (WBCS).

- 5.2 The following material considerations are relevant to the consideration of this application:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Obligations SPD (2015)

6. Appraisal

- 6.1 The main issues for consideration in this application are:

- Amendment to the mortgage exemption clause

- 6.2 The National Planning Policy Framework outlines that the tests of planning obligations are that they are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. Section 106A of the Town and Country Planning Act 1990 (as amended) states that where an obligation no longer serves a useful purpose it shall be discharged. Where an obligation continues to serve a useful purpose and it can be served equally well subject to the modifications specified then it is modified to have that effect.

- 6.3 As outlined in the introduction the proposed modifications are primarily to update mortgagee in possession clauses related to the affordable housing. The original planning obligations continue to serve a useful purpose and is considered to serve that purpose equally subject to the modifications outlined above.

- 6.4 The affordable housing units are still required under policy CS6 of the Core Strategy. The other matters of the original planning obligation are required in order to make the impact of the development acceptable in its impact. These obligations continue to be necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development.

- 6.5 The mortgage exemption clause is only invoked at a point where a registered provider is in a position where they default on their loans from funders, and as such the funder has taken the affordable housing units in to their possession and is then able to dispose of the units free of the affordable housing obligations. This allows for the funder to recover any costs incurred on the funding arrangement, or market value whichever is the higher. The risk of this situation is considered extremely low and the mechanism

includes that the council or another registered provider can repurchase the homes within a set period.

- 6.6 The inclusion of this specific clause is usual practice and accepted in some form by all local authorities, registered providers and funders. It is noted that the form in use by WBC varies from the industry standard and has evolved over time through various negotiations with registered providers. The form of the clause in use by WBC affords additional protection to Shared Ownership homes that does not exist in the industry standard.
- 6.7 Planning receive a number of requests for older S106 to be varied to include the industry standard of this clause where the clause in use is to some extent out of date for the current accepted standards, or in this case a more recent S106 to revert to the industry standard rather than the normal form of the clause used by WBC.
- 6.8 In this case planning are not agreeing to revert to the industry standard but one that still offers additional protection to shared ownership but should also address the registered providers concerns around maximising borrowing to deliver affordable housing in the District.
- 6.9 Appendix 1 has the detailed wording suggested by the applicant/agent in black and the red is the recommended wording from the housing officer; Appendix 2 has the original S106 wording for reference.

7. Planning Balance and Conclusion

- 7.1 For the reasons set out above it is recommended that the application be approved.

8. Full Recommendation

- 8.1 To delegate to the Development Control Manager to grant approval of the Deed of Variation as outlined in appendix 1.
- 8.2 PROVIDED THAT a Deed of Variation to the Section 106 Agreement has been completed by 21st December 2023 (or such longer period that may be authorised by the Development Control Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee).

A new clause 18 shall be added to the agreement in the following words:

18 Enforceability

18.1 The obligations in this agreement shall not be binding upon:

18.1.1 any owner occupier or tenant of the Affordable Dwellings and the Open Market Dwellings or their mortgagees or successors in title.

18.1.2 The Registered Provider or their mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver save for the obligations contained in the Second Schedule."

Addition of Clause 18 is agreed.

Paragraph 1 of the Second schedule to the Original Agreement shall be deleted in its entirety and replaced with the following:

"The obligations within this Schedule shall not be binding upon a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT

(a) such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

(b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the Affordable Housing provisions in this Schedule which provisions shall determine absolutely"

The following is wording recently consulted on with another RP which we believe addresses their concerns and those raised here by yourselves, see point 1.13.3 for details of maximum recoverable sums.

'1.13 In the event that a mortgagee or chargee (or any receiver including and administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator

(each a "Receiver")) of a Registered Provider or of a shared ownership lessee of the Affordable Dwellings is bound by the terms of this Agreement as mortgagee or chargee or Receiver in exercise of its power of sale of the Affordable Dwellings or any of them none of the Affordable Dwellings shall be sold or otherwise disposed of by the mortgagee or chargee or Receiver unless the following procedure has been followed in respect of each of the Affordable Dwellings:

- 1.13.1** *The mortgagee, chargee or Receiver shall on each sale have first offered in writing to transfer each of the Affordable Dwellings at the price hereinafter defined for the purposes of social housing to the Council or to a Registered Provider nominated by the Council whose objects or functions include the provision of low cost rented housing (the deed of transfer relating to such transfer to be in such form as the Council shall reasonably require) or in the case of Shared Ownership Dwellings or any of them to a person nominated by the Council; and*
- 1.13.2** *The Council has refused the offer or has failed to accept such offer or is unable to nominate a Registered Provider or in the case of the Shared Ownership Dwellings is unable to nominate a person for such dwelling(s) within a period of six (6) weeks from the date of receipt by the Council of the offer in writing by the mortgagee chargee or Receiver OR has accepted such offer or made such nomination and has failed to complete the disposal arising from such offer or nomination within a period of six (6) weeks from the date of such offer or nomination (whichever is the later) AND the mortgagee chargee or Receiver shall then be at liberty to dispose of the Affordable Dwellings or any of them free from the restrictions contained in this Schedule;*
- 1.13.3** *The price referred to in 1.13.1 above shall be a sum equal to the higher of:*
- a. The open market value on the date of the offer of the Affordable Dwelling(s) on the assumption that (at the date of the offer) the Affordable Dwelling(s) is/are let on an assured tenancy; or*
 - b. The sum required by the mortgagee or chargee (or any receiver appointed by such mortgagee or chargee) to redeem its borrowing on the Affordable Dwelling(s) including all accrued principal monies, interest, costs and expenses"*

Paragraph M of the Second Schedule shall be amended so that the words "(including the preserved right to buy)" are included after the words "right to buy".

Agreed

Paragraph j(C) of the Second Schedule shall be amended so that the wording

"and has first been approved by the Council (such approval not to be unreasonably withheld or delayed) or with such minor variations as the parties shall agree ("Approved Lease") provided that for the avoidance of doubt assignment surrender or other disposal of the Approved Lease shall not constitute a disposal for the purposes of this paragraph (j)"

shall be deleted and replaced with "subject to any minor reasonable variations required from time to time"

The addition of "subject to minor reasonable variations required from time to time" agreed but placed after: "and has first been approved by the Council (such approval not to be unreasonably withheld or delayed) or

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**Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act
1990**

relating to the development on the land East of Salisbury Road, Hungerford

16/03061/OUTMAJ

Dated: *30th November* 2017

WEST BERKSHIRE DISTRICT COUNCIL (1)

[REDACTED] (2)

[REDACTED] (3)

[REDACTED] (4)

[REDACTED] (5) AND

[REDACTED] (6)

File Reference: 005166

PARTIES

1. The Council WEST BERKSHIRE DISTRICT COUNCIL of Council Offices
Market Street Newbury Berkshire RG14 5LD
2. The Owners [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
3. The Developers CALA MANAGEMENT LIMITED (Company Registration Number
SCO 13655) whose registered office is situated at Adam House, 5
Mid New Cultins, Edinburgh, EH11 4DU and WATES
DEVELOPMENTS LIMITED (Company Registration Number
00441484) whose registered office is situated at Wates House,
Station Approach, Leatherhead, Surrey KT22 7SW

RECITALS

- A. The Council is the Local Planning Authority for the purposes of the Act and the Highway Authority for the purposes of the Highways Act 1980 for the area in which the Site is situated
- B. The Owners are registered as Owners with freehold absolute title of the Site under title number [REDACTED]
- C. The Developer has an option to acquire the Site
- D. The Developer submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed
- E. The Council resolved on 5 April 2017 to grant the Planning Permission subject to the prior completion of this Deed

1. NOW THIS DEED WITNESSES OPERATIVE PART

1.1. Definitions

- 1.1.1. "the Act" the Town and Country Planning Act 1990 as amended
- 1.1.2. "Affordable Dwellings" Social Rented Dwellings and Shared Ownership Dwellings
- 1.1.3. "Affordable Housing" housing that is affordable to those people on the Council's common housing register who cannot afford to rent or buy housing generally available on the open market including Social Rented Dwellings and Shared Ownership Dwellings and any other tenure or combination of tenure approved in writing by the Council
- 1.1.4. "Affordable Housing Land" land or Residential Units to be used for Affordable Dwellings in accordance with the details submitted pursuant to the Second Schedule
- 1.1.5. "the Application" the application for planning permission dated 2 November 2016 submitted to the Council for the Development and allocated reference 16/03061/OUTMAJ
- 1.1.6. "the Developer Contributions Officer" the person from time to time holding the post of Developer Contributions Officer with the Council or the person who is designated as such by the Council for the purposes of this Agreement
- 1.1.6 "the Development" residential development of up to 100 dwellings with matters of appearance, landscaping, layout

and scale to be reserved pursuant to the Planning Permission

1.1.7. "the Head of Development and Planning" the person from time to time holding the post of Head of Development and Planning with the Council or the person who is designated as such by the Council for the purposes of this Agreement

1.1.8. "Head of Legal Services" the person from time to time holding the post of Head of Legal Services with the Council or the person who is designated as such by the Council for the purposes of this Agreement

1.1.9. "HCA" the independent regulator for affordable housing in England known as Homes and Communities Agency who works with social-housing landlords and tenants to improve the standard of service for tenants and residents or such other body that replaces it

1.1.10. "the Index" the All Items Index of Retail Prices published by the Office of National Statistics or during any period when no such index exists the index which replaces the same or is the nearest equivalent thereto as may reasonably be specified by the Council

1.1.11. "Occupation" means first beneficial residential occupation of any Residential Unit which shall be the date upon which Council Tax becomes payable for that Residential Unit or when the Owners first transfer or lease that Residential Unit (whichever is earlier)

- but excluding occupation for the purposes of fitting out or marketing and "Occupy" and "Occupied" shall be construed accordingly
- 1.1.12. "Open Market Dwellings" means any of the Residential Units which are not Affordable Dwellings
- 1.1.13. "the Plan" the plan attached to this Deed
- 1.1.14. "the Planning Permission" outline planning permission for the Development subject to conditions to be granted by the Council pursuant to the Application and subject to written approval by the Council includes any subsequent permissions to vary the conditions therein under Section 73 and Section 73A of the Act
- 1.1.15. "Registered Provider" means either a housing association or other body approved by the Council and registered with the HCA as a registered provider
- 1.1.16. "Shared Ownership Dwellings" Residential Units with arrangements under a lease which is granted to those persons on the Council's common housing register on payment of a premium calculated by reference to a percentage of either the value of the Shared Ownership Dwelling or the cost of providing it with that percentage of the value or cost being owned by the tenant and which allows upon further payments being made for the tenant to obtain up to 100% of the freehold or leasehold interest of that Shared Ownership Dwelling from the provider of the Affordable Dwellings or arrangements

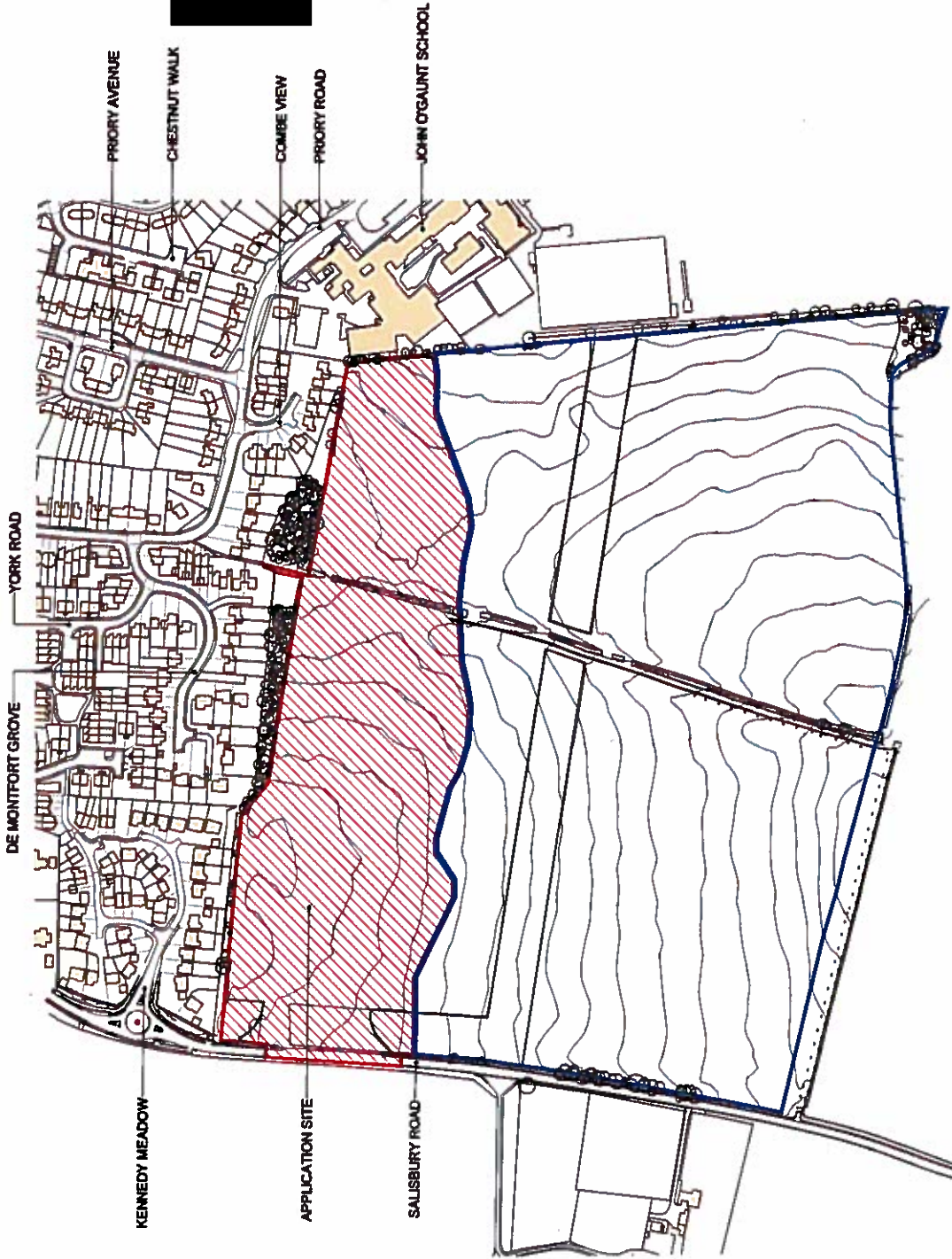
The drawings are copyright of Scott Worsfold Associates and may not be reproduced or altered in any way without written permission.

DRAWINGS CAN BE USED FOR PURPOSES OF PLANNING APPLICATION ONLY

Check all dimensions on site before work proceeds. Report discrepancies to architect.

16 (Book A) 4/11

Rev. D 15.11.16 Do not scale notes provided to drawings can be used for purposes of planning applications only.



Location Plan
Land off Salisbury Road, Hungerford

Scott Worsfold Associates
MR BA Chartered Architects
 The Studio, 22 Newwood Road, Farnborough, Dorset, BH12 9WY
 Telephone 01202 589500 e-mail: info@swa-arch.com

Date: JUN/16 Scale: 1:2500 @ A2
 Dwg No. 15-917-LOC-D

www.scottworsfold.co.uk

████████████████████
Authorised Signatory

under which the owner of a freehold or leasehold interest in a Shared Ownership Dwelling conveys that interest to the buyer where the buyer pays an initial payment expressed as a percentage of the value of the interest in that Shared Ownership Dwelling at that time and agrees to pay other sums calculated by reference to a percentage value of the interest in that Shared Ownership Dwelling at the time when each sum is due to be paid with those payments being secured by a charge or mortgage over the Shared Ownership Dwelling in both cases in accordance with any requirements of the HCA

1.1.17. "Social Rented Dwellings"

Residential Units to be transferred to and managed by a Registered Provider and available for rent at or below the social target rent as may from time to time be set by the HCA or by any successor charged with providing housing to those not adequately served by the commercial housing market

1.1.18. "Residential Unit"

means any single dwelling unit (including amenity space and car parking associated with that dwelling unit) constructed on the Site pursuant to the Planning Permission to be used for residential purposes

1.1.19. "the Site"

the land shown edged red on the Plan and known as the land on the east side of Salisbury Road, Hungerford

1.2. Interpretation

- 1.2.1. Save where this Deed specifies otherwise or where the context so requires the singular includes the plural and vice versa and references in this Deed to any part shall include the successors in title to that party's interest in the Site or part thereof
- 1.2.2. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies corporations and unincorporated bodies and all such words shall be construed interchangeably in that manner
- 1.2.3. Whenever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise
- 1.2.4. Where in this Deed reference is made to any clause paragraph schedule plan or recital such reference (unless the context otherwise requires) is a reference to a clause paragraph schedule plan or recital in this Deed or (in the case of a plan) attached to this Deed
- 1.2.5. The titles and headings appearing in this Deed are for ease of reference only and shall not affect the construction of this Deed
- 1.2.6. Where in this Deed any party covenants not to act such covenant shall include an obligation not to permit or suffer such an act by another person
- 1.2.7. All references in this Deed to statutes statutory instruments regulations and other legislation shall include their successor amended or replacement provision
- 1.2.8. For the purposes of this Agreement the Development shall be deemed to be commenced on the earliest date on which any material operation (as defined in section 56(4) of the Act) comprised in the Development is begun to be carried out and the words "Commence"

"Commenced" and "Commencement" shall in such clause and the Schedule be construed accordingly

1.2.9. All references in this Deed to a particular title of officer or post at the Council shall include successor or replacement officers or posts

1.2.10. Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms

2. LEGAL BASIS

2.1. This Deed is made pursuant to Section 106 of the Act [and to the extent that any obligations contained in this Agreement are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and any other enabling powers]

2.2. Clauses 4 and 8 and each and every covenant set out in the First Schedule and the Second Schedule are planning obligations for the purposes of Section 106 of the Act and shall be enforceable by the Council

3. CONDITIONALITY

3.1. With the exception of clauses 5.1, 10.2, 15 and 16 which shall come into effect immediately upon completion of this Deed this Deed is conditional upon the grant of the Planning Permission

4. THE OWNER'S AND DEVELOPER'S COVENANTS

4.1. The Owners covenant with the Council as set out in the First Schedule and the Second Schedule

4.2. The Developers subject to obtaining a freehold or leasehold interest in the Site covenant with the Council as set out in the First Schedule and the Second Schedule

5. MISCELLANEOUS

- 5.1. The Developers shall pay to the Council on or before the completion of this Deed the reasonable costs of the Council incurred in the review negotiation preparation and execution of this Deed
- 5.2. Save as provided in respect of successors in title to the Site or any successor to the relevant statutory function of the Council no provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 5.3. This Deed shall be registered on the Register of Local Land Charges and any other register as the Council shall determine
- 5.4. Insofar as any clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity legality or enforceability of the remaining provisions of this Deed
- 5.5. This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to Commencement of the Development
- 5.6. No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have parted with their entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest
- 5.7. Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission) granted after the date of the Planning Permission

6. WAIVER

- 6.1. No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or acting upon any subsequent breach or default

7. FETTER OF DISCRETION

The parties agree that:-

- 7.1. Nothing in this Deed constitutes a planning permission or an obligation to grant planning permission
- 7.2. Nothing in this Deed shall prejudice the exercise of any statutory power duty or discretion by the Council

8. INDEXATION

- 8.1. In addition to any sum stated as being payable in this Deed a further sum ("the Additional Sum") shall be paid and any obligation in this Deed to pay this further sum which shall be calculated by multiplying the relevant sum by the percentage by which the Index has increased from the date of this Deed to the date that payment of the relevant sum is made

9. APPLICATION OF CONTRIBUTIONS

- 9.1. The Council may either spend a contribution or sum it has received under this Deed itself for the purposes for which it was paid or pass it to a third party to spend on its behalf provided that such contribution or sum may only be applied by the third party for the purpose for which it was paid to the Council and the Council shall procure that the third party complies with the relevant terms of this Deed in relation to such sum or contribution
- 9.2. In the event of any of the relevant contributions required under this Deed not being expended or contractually committed to be expended within a period of ten years starting on the date of receipt by the Council of the relevant contribution or the date of the Commencement of the Development whichever is the later then the Council shall within 28 days of receiving a written request to do so repay the unexpended part of that relevant contribution or the part of that relevant contribution which has not been contractually committed to the person from whom it was received along with the interest accrued from time to time at the Bank of England base rate thereon following the expiry of the said ten year period

10. OWNERSHIP

10.1. The Owners agree with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged. Such notice to give details of the transferees full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan

11. NOTICES

Unless otherwise agreed in writing:-

- 11.1. Notices shall be in writing and delivered by hand or first class post to the Owners at such address and for the attention of such person as may be specified from time to time or in the absence of a specified address to (in the case of a company) its registered address marked for the attention of the Company Secretary or (in the case of an individual) to their usual or last known address and to the Council at West Berkshire District Council Council Offices Market Street Newbury Berkshire RG14 5LD addressed to the Developer Contributions Officer
- 11.2. Notices served by the Council are deemed to be valid if signed by the Head of Planning and Countryside or his authorised officer or by the Head of Legal Services
- 11.3. Notices and representations served by the Owners are deemed valid if signed by the relevant person referred to in clause 11.1

12. NO COMPENSATION PAYABLE

12.1. No compensation shall be payable by the Council as a result of the obligations contained in this Deed

13. INTEREST

13.1. If any payment due under this Deed to the Council is paid late interest will be payable from the date payment is due to the date of payment at the rate of 4% above the Bank of England's base rate

14. VAT

14.1. All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable

15. JURISDICTION

15.1. This Deed is governed by and shall be interpreted in accordance with the law of England

16. DELIVERY

16.1. The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

17. TRUSTEE LIABILITY

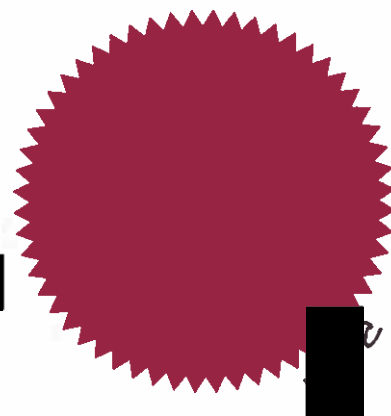
17.1 The Owners have entered into this deed as trustees of the Lady Marion Rootes Childrens Settlement and not in any personal capacity or other capacity and accordingly no liability shall attach to the Owners in excess of an amount equal to the net assets held by the Owners for the account of the aforementioned settlement

17.2 Clause 17.1 will not apply to any liabilities resulting from any wilful or reckless breach of duty or trust by the Owners.

IN WITNESS WHEREOF the Parties have executed this Agreement as a Deed the day and year before written

EXECUTED AS A DEED by affixing the Common Seal of WEST BERKSHIRE DISTRICT COUNCIL and authenticated by:

)
)
)
[Redacted]
Authorised Signatory



SIGNED AS A DEED by THE RIGHT HONOURABLE NICHOLAS GEOFFREY THIRD BARON ROOTES in the presence of:

)
)
)
[Redacted]

Witness NAME
SIGNATURE
ADDRESS
OCCUPATION

[Redacted witness information]

SIGNED AS A DEED by THE HONOURABLE SALLY HAYTER ST JOHN in the presence of:

)
)
)
[Redacted]

Witness NAME
SIGNATURE
ADDRESS
OCCUPATION

[Redacted witness information]

SIGNED AS A DEED by ROGER MAY PETERS in the presence of:

)
)
)
[Redacted]

Witness NAME
SIGNATURE
ADDRESS
OCCUPATION

[Redacted witness information]

EXECUTED as a DEED by)
CALA MANAGEMENT LIMITED)
acting by [REDACTED])
and by [REDACTED])
as Attorney of CALA Management)
Limited)

Attorney: [REDACTED]

Attorney: [REDACTED]

In the presence of:

Witness signature: [REDACTED]

Witness Name: [REDACTED]

Witness Address: [REDACTED]

Witness Occupation: [REDACTED]

EXECUTED as a DEED by)
WATES DEVELOPMENTS LIMITED)
acting by)

[REDACTED]
Director

Director/Secretary [REDACTED]

FIRST SCHEDULE

THE Owners and the Developers covenant with the Council/ as follows:

Notification of Commencement of Development

1. To serve written notice of intended Commencement of Development upon the Developer Contributions Officer not less than fourteen (14) days before the intended Commencement of Development
2. Not to Commence Development unless at least 14 days has expired from the date upon which a written notice referred to in paragraph 1 has been served upon the Developer Contributions Officer

Impact Mitigation Contributions

Public Open Space

3. Not to Occupy the Development without first paying to the Council the sum of £68,200 (sixty eight thousand and two hundred pounds) and the Additional Sum towards the future maintenance of the public open space comprised in the Development

SECOND SCHEDULE

The Owners covenants with the Council as follows:

- a. Not to Occupy or cause suffer or permit to be Occupied the Development unless and until not less than 14 days notice in writing has been given to the Head of Development and Planning of the date on which it is intended that any part of the Development will be Occupied
- b. That the Development shall include 40 (forty) Affordable Dwellings
- c. That 28 (Twenty Eight) of the Affordable Dwellings shall be Social Rented Dwellings and for the avoidance of doubt the unit mix of the Social Rented Dwellings shall be determined at reserved matters stage
- d. That 12 (Twelve) of the Affordable Dwellings shall be Shared Ownership Dwellings shall be determined at reserved matters stage
- e. Not to Commence the Development without first agreeing in writing with the Council the location and mix of all the Affordable Dwellings
- f. Not to erect or cause suffer or permit to be erected the Affordable Dwellings or any of them otherwise than on the Affordable Housing Land. Not to use or cause suffer or permit to be

used the Affordable Housing Land or any part or parts thereof for any purpose other than the provision of the Affordable Dwellings in accordance with the terms of this Schedule.

- g. Not to cause suffer or permit Occupation of any of the Open Market Dwellings until the freehold interest or long leasehold interest (of not less than 125 years) in the Affordable Housing Land has been transferred or completed and such agreement will include an agreement to include in the transfer or the lease (as the case maybe) to a Registered Provider with the benefit of the following:

- A. Full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Land; and
- B. Full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Land all such services to be connected to the mains

and reserving such rights as the transferors or lessors (as the case may be) may reasonably require

- h. Not to cause suffer or permit Occupation of more than Eighty Percent (80%) of the Open Market Dwellings comprising the Development unless all of the Affordable Dwellings have been constructed and completed and are capable of being Occupied as such
- i. That the method of construction of the Affordable Dwellings shall in all cases comply with the Homes and Communities Agency's Design and Quality Standards (D&QS) which for the avoidance of doubt should include Lifetime Homes Standards and Housing Quality Indicator HQI standards or such other version for the time being in force or such other standards as shall be issued by the HCA by way of replacement standards
- j. Subject to the provisos hereinafter set out not to sell lease licence let or otherwise dispose of the Affordable Housing Land or any part thereof in any manner whatsoever (except by way of legal charge or mortgage) or dispose of the Social Rented Dwellings on assured tenancies above social target rents without first obtaining the written consent of the Council given under

the hand of its Head of Legal Services (such consent not to be unreasonably withheld or delayed) PROVIDED THAT

- A Subject to paragraphs o p and q of this Schedule no consent is required for the first disposal of the Affordable Housing Land to a Registered Provider
 - B No consent will be required for the disposal of the Social Rented Dwellings or any of them on assured tenancies at or below social target rents to be assessed by a Registered Provider in accordance with the performance standards set out in "The Regulatory Framework for Social Housing in England" dated April 2012 by the HCA or such other HCA Guidance as shall be available from time to time to a Registered Provider
 - C No consent will be required for the disposal of the Shared Ownership Dwellings or any of them if such disposal is by way of lease by shared equity in a form which is based on forms published from time to time by the HCA (or its successors) and has first been approved in writing by the Council (such approval not to be unreasonably withheld or delayed) or with such minor variations as the parties shall agree ("Approved Lease") PROVIDED THAT for the avoidance of doubt assignment surrender or other disposal of the Approved Lease shall not constitute a disposal for the purposes of this paragraph (j)
- k. On the first disposal of each of the Shared Ownership Dwellings (for the avoidance of doubt this does not include the first disposal of the Affordable Housing Land to a Registered Provider) not to sell lease or otherwise dispose of a share of the same for a consideration in excess of SEVENTY FIVE PERCENT (75%) of the open market value at the date of such first sale lease or other disposal
- l. In the event that a mortgagee or chargee of a Registered Provider of the Affordable Dwellings is bound by the terms of this Agreement as mortgagee or chargee in exercise of its power of sale of the Affordable Dwellings or any of them none of the Affordable Dwellings shall be sold or otherwise disposed of by the mortgagee or chargee (or by any receiver administrators or

administrative receivers appointed by such mortgagee or chargee) unless the following procedure has been followed in respect of each of the Affordable Dwellings

- A. The said mortgagee or chargee shall on each sale have first offered in writing to transfer each of the Affordable Dwellings at the price hereinafter defined for the purposes of social housing to the Council or to a Registered Provider nominated by the Council whose objects or functions include the provision of low cost rented housing (the deed of transfer relating to such transfer to be in such form as the Council shall reasonably require) or in the case of Shared Ownership Dwellings or any of them to a person nominated by the Council; and
- B. The Council has refused the offer or has failed to accept such offer or is unable to nominate a Registered Provider or in the case of the Shared Ownership Dwellings is unable to nominate a person for such dwelling(s) within a period of six weeks from the date of service by the Council of the offer in writing by the said mortgagee or chargee OR has accepted such offer or made such nomination and has failed to complete the disposal arising from such offer or nomination within a period of six weeks from the date of such offer or nomination (whichever is the later) AND the said mortgagee or chargee shall then be at liberty to dispose of the Affordable Dwellings or any of them free from the restrictions contained in this Schedule
- C. The price referred to in paragraph (A) above shall be a sum equal to the open market value PROVIDED THAT notwithstanding the terms of this paragraph (C) the said mortgagee or chargee shall be permitted to recover all interest on the outstanding mortgage or charge together with the mortgagee's or chargee's costs and expenses relating thereto subject to having complied with the provisions in clause (l) of this Second Schedule

- m. In the event that any of the Affordable Dwellings is sold pursuant to the right to buy or the right to acquire provisions of the Housing Act 1985 or the Housing Act 1996 or any amendment or re-enactment thereof such sale and all subsequent dealings in relation to such an Affordable Dwelling shall be free from the restrictions relating to the Affordable Dwellings contained in this Schedule
- n. For the avoidance of doubt in the event that a leaseholder of a lease of one of the Shared Ownership Dwellings has completed the purchase of the freehold reversion pursuant to its right to staircase up to 100% under the said lease the restrictions relating to the Affordable Dwellings contained in this Schedule shall with effect from the date of completion of such purchase(s) cease to apply to the relevant Shared Ownership Dwelling(s);
- o. On the first disposal of the Affordable Housing Land to a Registered Provider the consideration for the Affordable Housing Land on which all of the Social Rented Dwellings and all of the Shared Ownership Dwellings (for the avoidance of doubt all of the Affordable Dwellings are to be transferred at nil grant) are to be constructed pursuant to paragraph (i) of this schedule shall be a sum calculated per dwelling plot (which for the avoidance of doubt shall include the consideration for the plot of land and the infrastructure and utilities to the boundary of the plot)
- p. Not to appoint a Registered Provider to deliver the Affordable Dwellings or transfer the Affordable Housing Land to a Registered Provider without the prior written approval of the Council (such approval not be unreasonably withheld) unless that Registered Provider is one or any of the following:

Sovereign Housing

A2 Dominion Housing Group

Aster Group

Home Group and

Radian Group

and in the event that the Council receives an application for approval to sell the Affordable Housing Land or any part thereof to a Registered Provider the Council shall (subject to the

proviso hereafter contained and subject to paragraph q of this Schedule) grant consent to such sale with such reasonable conditions as are appropriate

- q. Any person who applies to the Council for consent to sell the Affordable Housing Land or any part thereof under this Agreement shall if so requested by the Council provide such reasonable information as the Council shall demand in connection with such application.

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Agenda Item 4.(3)

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(3)	23/00584/OUT Hungerford	8 th May 2023 ¹	S73A Application for Variation of a Condition 13 (contamination remediation) following Grant of Planning Permission 15/01355/OUTD - S73A - Variation of Conditions 4, 6, 7, 8, 10, 11, 13, 14, 15, 18 and Condition 20 of approved application 12/01584/OUTD - Residential development for two (2) detached houses with garages. Harefield House and The Gables Upper Eddington Hungerford NHBC

¹ Extension of time agreed with applicant until 28th June 2023

The application can be viewed on the Council's website at the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=23/00584/OUT>

Recommendation Summary: To **DELEGATE** to the Development Control Manager to **GRANT APPROVAL**

Ward Member(s): Councillor Dennis Benneyworth
Councillor Denise Gaines
Councillor Tony Vickers

Reason for Committee Determination: Called in by Ward Member

Committee Site Visit: 15th June 2023

Contact Officer Details

Name: Sian Cutts
Job Title: Senior Planning Officer
Tel No: 01635 519111
Email: sian.cutts@westberks.gov.uk

1. Introduction

- 1.1 This application seeks a Section 73A application to vary condition 13 (contamination remediation) of the planning permission 15/01355/OUTD, which granted outline planning permission for two detached houses with garages, and the two houses are now known as Harefield House and The Gables. The development has been completed, without complying with condition 13 which required:

“The development hereby approved must be completed taking into account the notes at Section 13 of the Phase 1 and 2 Environmental Investigation Report (reference 3761/15) prepared by Terramech Investigations Ltd dated 18 March 2016. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must then be undertaken and submitted for approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme no dwelling shall be occupied until a verification report has been submitted to and approved in writing by the local planning authority.”

- 1.2 The development has been completed without the decontamination and remediation works which were identified in the approved report taking place.
- 1.3 The site is situated to the rear of properties at 14-19 Upper Eddington and between Hamblin Meadow and Waram Close. There are two storey dwellings to the north and west of the site and bungalows to the south. The site is within the North Wessex Downs Area of Outstanding Natural Beauty (AONB).
- 1.4 This application is seeking variation of that condition so that the development can be regularised and to allow for remediation works for the land contamination on the site to be undertaken in approved manner. A Remedial Method Statement and Discovery Strategy has been submitted which sets out the remediation strategy for dealing with the contamination which has been found on site, an implementation plan, and a verification process once the works have been completed, and the report also sets out the working practices on site.

2. Planning History

- 2.1 The table below outlines the relevant planning history of the application site.

Application	Proposal	Decision / Date
97/51041/OUT	Proposed residential development for two dwellings	Approved 20/01/1998
00/01052/RENEW	Renewal of Planning Application 151041 for proposed residential development for two dwellings	Approved 30/01/2001
00/10255/OUT	Renewal of Planning Application 151041 for proposed residential development for two dwellings	Approved 06/02/2001

06/00255/OUT	Renewal of Planning Application 151041 for proposed residential development for two dwellings	Approved 27/03/2006
09/00420/OUTD	Residential development for two (2) detached houses with garages	Approved 08/05/2009
12/01584/OUTD	Residential development for two (2) detached houses with garages.	Approved 30/08/2012
14/00753/REM	Approval of Reserved Matters following outline planning permission 12/01584/OUTD - Matters to be considered: access, appearance, landscaping, layout and scale.	Approved 16/07/2014
15/00653/COND1	Approval of details reserved by Condition 3: Arboricultural Method Statement of planning permission 14/00753/REM: Approval of Reserved Matters following outline planning permission 12/01584/OUTD - Matters to be considered: access, appearance, landscaping, layout and scale.	Refused 18/05/2015 Appeal dismissed 28/07/216
15/00778/COND1	Application for approval of details reserved by Conditions 4 - Surfacing, 6 - Visibility Splays, 7 - Parking, 8 - Temporary Parking, 10 – Materials, 11 - Fencing and enclosures, 13 - Landscape, 14 - Spoil, 15 - Floor Levels, 18 – Tree Protection, 20 - Dust of Planning Permission 12/01584/OUTD: Residential development for two (2) detached houses with garages.	Refused 18/05/2015 Appeal Split decisions 28/07/2016
15/01355/OUTD	S73A - Variation of Conditions 4, 6, 7, 8, 10, 11,13, 14, 15, 18 and Condition 20 of approved application 12/01584/OUTD Residential development for two (2) detached houses with garages.	Refused 09/09/2015 Appeal Allowed 28/07/2016
15/03024/OUTD	Section 73A - Application to vary condition (21) cont land of planning permission 12/01584/OUTD	Approved 17/05/2016

3. Procedural Matters

- 3.1 Given the nature and scale of this development, it is not considered to fall within the description of any development listed in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such, EIA screening is not required.

- 3.2 Site notice displayed on 22nd March 2022 at the site; the deadline for representations expired on 12th April 2023.
- 3.3 CIL considerations will be made outside of the consideration of this planning application.
4. Statutory and non-statutory consultation

Statutory and non-statutory consultation

- 4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council’s website, using the link at the start of this report.

Hungerford Town Council:	No response received
WBC Environmental Health:	<p>The remediation proposals for the gardens, soft landscaping, patios, drainage and driveways are sufficient in order to break or remove the potential pollutant linkages.</p> <p>Once complete a detailed validation and verification report will be required in order to demonstrate that all remediation specifications have been completed in full along with any additional contamination that was discovered as part of the remediation works.</p>

Public representations

- 4.2 Representations have been received from 8 contributors, 0 of which support, and 7 of which object to the proposal, and 1 is impartial.
- 4.3 The full responses may be viewed with the application documents on the Council’s website, using the link at the start of this report. In summary, the following issues/points have been raised:
- 4.4 The impartial comments
- Concerned about the boundary and garden adjoining the site
 - Damage has occurred to fences and ground alterations
 - Want privacy maintained to the garden
- 4.5 The objections
- Raised concern about the numbering on the condition to be varied
 - It appeared that the conditions were discharged as the properties were registered for Council Tax, solicitors searches indicated no problems and the properties were sold
 - The council appeared to be satisfied with the discharge of contaminated land issues, until April 2019, when Environmental Health queried if remedial works had taken place, and soil transfer tickets were provided
 - Other areas of unacceptable lead contamination have been discovered which have not been notified to the Council by NHBC and are missing from the RSK RMS report

- Concerned about lead contamination below the driveway to The Gables, and spreading into neighbouring properties through porous gabion walls
- An alternative scope of costed remedial works has been produced for The Gables
- Incorrect red line
- Set out detailed errors and omissions from the RSK report
- Concern about damage to property
- Alterations to ground levels when house were built
- Concern about drainage onto land from the site
- Want to be assured than height and privacy to garden will be maintained
- Disappointed that WBC and Building control did not hold developer to account
- Parking for construction vehicles, equipment/materials storage, noise disturbance, privacy and security during works. Mess and contamination to road and cars whilst work is taking place over 12 month period. A Construction Management Statement should be provided
- Concerned about impact on works on the integrity of the gabion wall and fencing along the boundary
- Concern about airborne pollution risks
- Proposals do not go far enough to mitigate the effects on local residents

5. Planning Policy

5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.

- Policies ADPP1, ADPP5, CS1, CS4, CS5, CS13, CS14, CS16, CS17, CS18, CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policies C1, P1 of the Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD).
- Policies OVS5, OVS6, TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

5.2 The following material considerations are relevant to the consideration of this application:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- North Wessex Downs AONB Management Plan 2014-19
- WBC Quality Design SPD (2006)

6. Appraisal

6.1 The main issues for consideration in this application is:

- Whether the proposal provides a satisfactory remediation scheme for the site

Principle of development

6.2 The principle of two dwellings on the site was established through the granting of outline planning permission in 2012, and this followed a series of planning permissions and renewal of planning permission which dated back to 1998. The 2012 planning

permission was varied following an application and appeal. The application is proposing remediation works which are required for the site to deal with the contamination found within the soil. The application is therefore considered in accordance with the following matters.

Proposed Remediation Scheme

- 6.3 Policy OVS5 seeks to prevent pollution of the environment, and requires proposals to have regard (amongst other things) to the need to ensure adequate storage and disposal of waste on site. The NPPF paragraph 183 says that planning decision should ensure that the site is suitable for its proposed use taking into account any risks from contamination and proposals for mitigation including land remediation. It goes on to say that after remediation, land should not be capable of being determined as contaminated land (under Part 11A of the Environment Protection Act 1990). It goes on to say in paragraph 184 that where a site is affected by contamination issues responsibility for securing a safe development rests with the developer/landowner.
- 6.4 The application has been submitted with a Remedial Statement Strategy and Discovery Strategy, prepared by RSK Geosciences. This has built upon the previous surveys and strategies prepared by Terramech and submitted alongside the previous applications. The RSK Geosciences report concludes that the contaminated soil was not removed from the site, that no break layers have been identified in the soil, and that the geotextile membrane that was recommended has not been laid. The proposed remediation is to remove the garden soil to a depth of 0.6m below ground level, and the soil beneath the driveways is also removed. These soils are to be stockpiled on a geotextile membrane, tested and disposed of to a suitable licensed landfill or treatment facility. The site will then be restored with the laying of a geotextile membrane across the garden and landscape areas at a level of 0.6 metres below ground level, in the garden and landscaped area, with a depth of 0.9 metres for tree pits. There will then be certified soil laid over these areas. Certified imported stone/soil will be imported beneath the driveway and drainage. All certifications of soils and stones will be checked by the Environmental Consultant. There will also be in-situ testing of the soil.
- 6.5 The Environmental Health officer has considered the details of the remediation scheme which has been submitted. The remediation proposal for the gardens, soft landscaping, patios, drainage and driveways are considered to be sufficient in order to break or remove the potential pollutant linkages. Once this work has been carried out, a detailed validation and verification report will be required in order to demonstrate that all remediation specifications have been completed in full along with any additional contamination that was discovered as part of the remediation works. The remediation statement sets out what the steps are to ensure that the correct verification measures are provided at the appropriate stages. The condition requires the submission of a verification report, and this can be included within the revised conditions. The Environmental Health Officer has not raised any objections to the remediation scheme, and verification measures which have been identified, and is satisfied that these remediation proposals for the gardens, soft landscaping, patios, drainage and driveways are sufficient to remove the contamination and provide satisfactory remediation works to ensure that the potential pollutant linkages are broken or removed.
- 6.6 There have been concerns raised about the potential disturbance to surrounding residents whilst the remediation works take place. The original permission was subject to a construction method statement condition, and it is appropriate to re-impose that condition to minimise the disturbance to the neighbouring properties, and to control contractor's vehicles, and hours of work.

Other Matters

- 6.7 The representations from neighbours have also referred to concerns about damage to adjacent property, and changes to ground levels when the houses were built, and privacy levels. The re-instated ground will need to be to the same levels as shown on the approved plans, so that the development accords with the original planning permission. Any damage to boundaries and neighbouring property during the remediation works is a private legal matter between the relevant parties. All approved boundary treatment will need to be re-instated if they are removed whilst the works are taking place.

7. Planning Balance and Conclusion

- 7.1 The application is setting out a remediation scheme to deal with the land contamination which was not removed in accordance with the original permission on the site. The remediation scheme, and measures for remediation, and identification of unforeseen contamination are considered to be acceptable, and with these measures in place the detail are considered to accord with policy OVS5 of the Saved Policies and also with the advice contained within the NPPF. Whilst it is regrettable that the appropriate remediation work did not take place in accordance with the original planning permission, this application provides the opportunity to provide the appropriate remediation works and rectify the breach of planning control. The detail are considered to be accord with the relevant development plan policies.

8. Full Recommendation

- 8.1 To delegate to the Development Control Manager to GRANT PLANNING PERMISSION subject to the conditions listed below.

Conditions

1.	Commencement of development The approved remediation works shall commence within twelve months from the date of this permission. Reason: To ensure an efficient resolution to the breach of the planning conditions for the development
2.	Approved plans The development hereby approved shall be completed in accordance with the following approved plans: i) Location plan ii) 1248-1 site survey iii) 0803-14-04 proposed site plan iv) 1506-115 finished floor levels v) 15061-513 plot 1 plans and elevations vi) 15061-510 plot 2 plans and elevations vii) 0803-14-03 proposed garage plans and elevations viii) 1506-104 access surfacing ix) 1506-106 visibility splays x) 1506-107a vehicle parking xi) 1506-113b landscaping xii) 1506-114 section to 3 Waram Close

	<p>xiii) 1506-116 section to Linden Lea xiv) 1506-128 sections</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
3	<p>Visibility Splays</p> <p>The visibility splays shown on drawing no 1506/106 shall be kept free of all obstructions to visibility to a height of 0.6m above carriageway level.</p> <p>Reason: To ensure there is adequate visibility at the access, in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS13 of the West Berkshire Core Strategy 2006-2026.</p>
4.	<p>Vehicle Parking Spaces</p> <p>The parking and turning spaces show on drawing no 1506/107a shall be kept available for parking (of private motor vehicles and/or light goods vehicles) at all times.</p> <p>Reason: To provide a satisfactory level of off-street parking spaces in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy 2006-2026 and Policy P1 of the Housing Site Allocations DPD (2006-2026)</p>
5.	<p>Permitted Development Restrictions – windows</p> <p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no windows/dormer windows other than ground floor windows in the south-west elevation of the dwelling on the western side of the site (Plot 1); and on the north-east and south-east elevations of the dwelling on the eastern side of the site (Plot 2).</p> <p>Reason: To ensure adequate levels of privacy and to prevent overlooking to neighbouring dwellings. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy 2006-2026 and the Quality Design Supplementary Planning Document.</p>
6.	<p>Boundary Treatments</p> <p>The fencing and other means of enclosure shown on drawing nos 1506/113b, 1506/114, 1506/116 and 1506/128 shall be permanently retained.</p> <p>Reason: To ensure adequate screening of the site in the interests of visual and neighbouring amenity. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy 2006-2026 and the Quality Design Supplementary Planning Document.</p>
7.	<p>Landscaping</p> <p>Within three months of the completion of the remediation works the hard landscaping shown on drawing no 1506/113b has been reinstated in full. Within the first planting season following the completion of the remediation works the soft landscaping shall be implemented in full in accordance with drawing no 1506/113b. Any trees, shrubs or plants that die or become seriously damaged within five years</p>

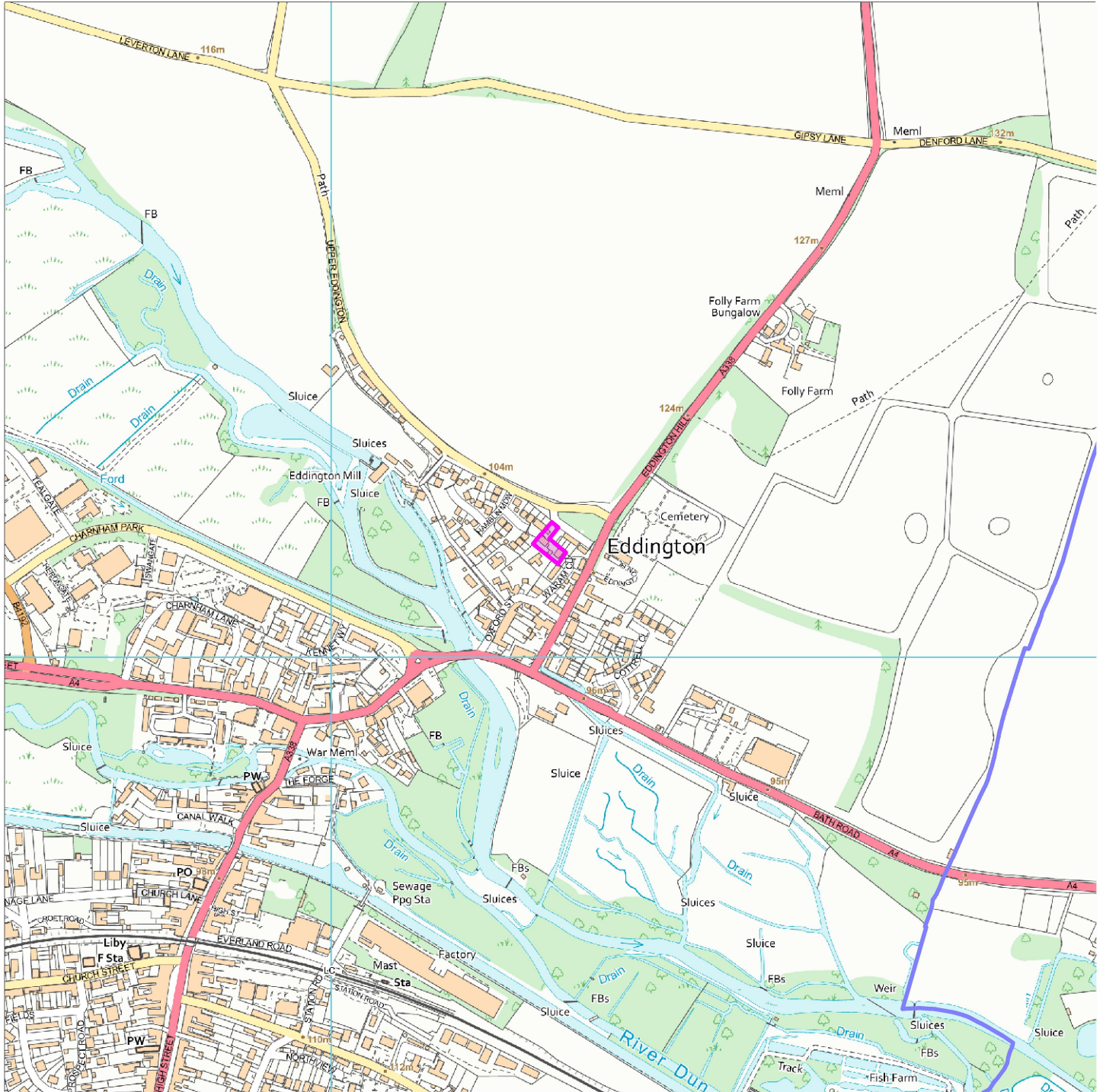
	<p>of the completion of the approval of the approved landscaping scheme shall be replaced in the next planting season by plants of the same size and species.</p> <p>Reason: Landscaping is an integral element of achieving high quality design. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.</p>
8.	<p>Ground levels</p> <p>The development shall be completed in accordance with the details shown on drawing nos 1506/114; 1506/115, 1506/116 and 1506/128.</p> <p>Reason: Reason: To ensure a satisfactory relationship between the proposed development and the adjacent land. This condition is applied in accordance with the NPPF, Policies ADPP5, CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD (June 2006).</p>
9.	<p>Gates</p> <p>Any gates to be provided as accesses where vehicles will enter or leave the site shall open away from the adjoining highway and shall be set back a distance of at least 5 metres from the edge of the highway.</p> <p>Reason: To ensure that vehicles can be driven off the highway before the gates are opened, in the interest of road safety. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS13 of the West Berkshire Core Strategy 2006-2026.</p>
10.	<p>Use of garages</p> <p>The garages shall be used solely for purposes incidental to the use of the dwellings hereby approved. No trade, business or commercial enterprise of any kind whatsoever shall be carried on, in or from the garages.</p> <p>Reason: To safeguard the amenities if adjoin land users and occupiers and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, and Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026.</p>
11.	<p>Hours of Work</p> <p>No remediation works shall take place outside 0730-1800 hours Mondays to Fridays; 0830 to 1300 hours on Saturdays; nor at any time on Sundays or Bank Holidays.</p> <p>Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS14 of the West Berkshire Core Strategy 2006-2026.</p>
12.	<p>Remediation Works</p> <p>The remediation works hereby approved must be completed in accordance with the Remedial Method Statement and Discovery Strategy dated September 2022 reference 305164 R02(01) by RSK Geosciences received on 9th March 2023. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority, and be dealt with in accordance with the</p>

	<p>procedures outlined in the approved Remedial Method Statement and Discovery Strategy. Following completion of measures identified in the approved remediation scheme no dwelling shall be occupied until a verification report has been submitted to and approved in writing by the local planning authority.</p> <p>Reason: To ensure that risks from land contamination to the existing and future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. In accordance with Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 Saved Policies 2007 and the National Planning Policy Framework.</p>
13.	<p>Obscure glazing</p> <p>The window at the first floor level in the north-west elevation of Plot 1 shall be fitted with obscure glass before the dwelling is occupied. The obscure glazing shall be retained thereafter.</p> <p>Reason: To prevent overlooking of adjacent properties, in the interests of safeguarding the privacy of the neighbouring occupants. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), Quality Design SPD (2006) and House Extensions SPG (July 2004).</p>
14	<p>Construction Method Statement</p> <p>No remediation works shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for:</p> <ul style="list-style-type: none"> (a) A site set-up plan during the works; (b) Parking of vehicles of site operatives and visitors; (c) Loading and unloading of plant and materials; (d) Storage of plant and materials used in the remediation works; (e) Temporary access arrangements to the site, and any temporary hard-standing; (f) Wheel washing facilities; (g) Parking of vehicles of residents on Harefield House and the Gables; <p>Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007). A pre-commencement condition is required because the CMS must be adhered to during all demolition and construction operations.</p>

Informatives

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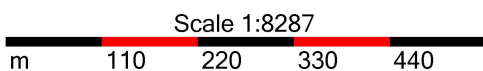


Map Centre Coordinates :

Scale : 1:8286

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Department	
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