

WESTERN AREA PLANNING COMMITTEE

20 MARCH 2024

UPDATE REPORT

Item No: 4.(2)

Application No: 22/02754/OUTMAJ

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Site: Land East Of Newbury College, Monks Lane, Newbury

1. Registered Speakers

Please refer to List of Speakers provided under separate cover.

2. Additional Consultation Responses

Environmental Health Officer comments

Since the publication of the committee report, a consultation response has been submitted by the Council's Environmental Health Officer. The full response may be viewed with the application documents on the Council's website, using the application reference. A summary of the Environmental Health Officer's consultation comments is outlined below:

The main issues of interest to Environmental Health for this site has been:

Noise – impact of the proposed development – supermarket (detailed)

- A noise assessment has been undertaken and submitted. The noise assessment has identified the typical background noise levels and using an understanding of the principles of BS4142:2014+A1:2019 which is the recognised method for rating and assessing industrial and commercial sound for planning applications, particularly from plant and deliveries as likely to be associated with the proposed supermarket (Aldi).
- More details required regarding the mechanical plant to be installed and the numbers and timings of deliveries.
- The principle of development for the Supermarket (Aldi) is acceptable. There are similar supermarkets across the area which the Public Protection Partnership cover, that are located within residential areas and can operate without adverse impact with appropriate consideration of plant, location and delivery design and delivery timings.
- Environmental Health do not object to the supermarket application, subject to recommended conditions.
- Environmental Health would recommend that delivery hours are restricted to 7am to 8pm Monday to Saturday and 9am to 8pm Sundays to ensure that deliveries do not occur during the times which are most likely to be noise sensitive for residents.

Noise – impact on future residents of the proposed development (outline)

- A noise assessment has been submitted for the impact of both existing noise sources and to identify the noise limit to design to for the proposed class E(a) element.

- Noise assessment covered the recycling centre which is located close to the proposed care home.
- The dominant noise source is road traffic noise. Noise from the recycling centre, even with annoyance penalty applied, is expected to be below the road traffic noise levels and therefore significant adverse impact from the recycling centre is not anticipated.
- The residential dwellings and care home are in outline, with only access to be determined at this stage. For noise, the appearance / layout is relevant and this will be determined at a later stage.
- Environmental Health expect all facades which are exposed to >50dB should be fitted with alternative ventilation to reduce the necessity to open windows for ventilation.
- All bedrooms on facades which are exposed to >45dB should be fitted with alternative ventilation to reduce the necessity to open windows for ventilation purposes.
- External amenity space such as gardens and open amenity space / play spaces should not be exposed to noise levels in excess of 55dB. There are some areas of the site, particularly closest to Newtown Road which will be exposed to higher noise levels. The design is at outline stage, so the design scheme for protecting residents from noise could be required by condition for submission when the details are finalised.
- The applicant would be encouraged to consider the layout and avoid placing habitable rooms (bedrooms and living rooms) on the most noise exposed facades and to ensure noise within external areas is reduced as far as practical to meet the 55dB upper noise limit. This can be covered at reserved matters stage.

Odour – Newtown Recycling Centre

- An odour and dust assessment has been submitted and there should not be adverse impacts on future occupants of the site. No objection on odour / dust grounds.

Lighting

- The light spill for the proposed lighting scheme for the store is shown on the submitted isolux map. It shows that light spill will not impact the dwelling areas.
- No objection to the external lighting proposals to the food store.
- If external lighting is proposed for the care home, details should be provided including an isolux map of light spill to demonstrate that dwellings will not be exposed to light above the recommended guideline limit.

Contamination

- The proposed outline consent is for residential dwellings with gardens, a care home and play area / open space, which are sensitive land uses for contamination. Whilst the site is not identified as having a former contaminative land-use, there is the potential for pollution incidents to have occurred and given the scale and sensitivity of the proposed use, a full suite of contaminated land conditions is recommended.

Following the submission of consultation comments from the Environmental Health Officer and discussions with the applicant, the below conditions are amended and recommended:

To amend the site location plan reference number, condition 2 of the Committee report is amended as follows:

Approved plans (Outline Planning)

The development hereby permitted shall be carried out in accordance with the following parameter plans.

- Site location plan - P1-01 REVISION C
- Parameters plan – P1-05 REVISION G

Reason: For the avoidance of doubt and in the interest of proper planning. Outline planning permission is granted solely on the basis of the parameters within these approved details. The parameters shown on this drawing are necessary to ensure the development achieves an acceptable standard of design, which complies with the National Planning Policy Framework, Policies ADPP1, ADPP2, CS13, CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026 and West Berkshire Quality Design SPD.

To add the Food Store External Lighting Plan to the condition, condition 3 of the Committee report is amended as follows:

Approved plans and documents (whole planning site)

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

Received on 07/11/2022.

- Arboricultural Impact Assessment
- BREEAM Pre-Assessment: Care Home
- Food Store External Lighting Plan
- Desk Based Assessment
- Desktop Market Analysis
- Dust and Odour Assessment
- Flood Risk Assessment and Drainage Statement 1/2
- Food Store Waste Management Plan
- Flood Risk Assessment and Drainage Statement
- Foul Drainage and Utilities Assessment
- LLFA Comments and Consultant Responses 1/2
- LLFA Comments and Consultant Responses 2/2
- Mineral Safeguarding Assessment
- Noise Assessment Report
- Technical Note: Response to Highway Officer Comments
- Retail Assessment
- Landmark Site Check Assess
- Statement of Community Involvement
- Sustainability Statement
- Transport Assessment 1/2
- Transport Assessment 2/2
- Food Store Proposed Elevations
- Proposed Food Store Floor Plans
- Landmark Land Contamination Layout Plans
- Proposed Care Home and Hospice Access Plan

- Proposed Food Store Access Plan
- Proposed Northern Residential Access Plan
- Proposed Southern Residential Access Plan
- Proposed EV Charging Station Access Plan
- Swept Path Analysis: 16.5m Articulated Vehicle Servicing Food store
- Proposed Food Store Roof Plan
- Food Store Proposed Sections
- Retractable Bollard Layout

Received on 27/03/2023.

- Care Home supporting document
- Care home supporting statement 2

Received on 04/04/2023.

- Amended Retail Assessment Addendum with Appendix
- Halebourne Care Staffing Statement

Received on 09/05/2023.

- Transport Note - Modelling
- Surface Water Drainage Addendum Issue 1
- Surface Water Drainage Addendum Issue 2

Received on 20/06/2023.

- Amended Design and Access Statement
- Amended Planning Statement
- Amended Illustrative Schedule of Accommodation
- Amended BREEAM Pre-Assessment - ALDI
- Amended Preliminary Ecology Report
- Amended Parameters Plan (with heights)

Received on 21/07/2023.

- Amended Sustainability Statement

Received on 08/08/2023.

- Amended Surface Water Drainage Addendum 1 of 6
- Amended Surface Water Drainage Addendum 2 of 6
- Amended Surface Water Drainage Addendum 3 of 6
- Amended Surface Water Drainage Addendum 4 of 6
- Amended Surface Water Drainage Addendum 5 of 6
- Amended Surface Water Drainage Addendum 6 of 6

Received on 09/08/2023.

- Amended proposed site plan
- Amended proposed illustrative site layout

- Amended proposed soft landscaping

Received on 28/09/2023.

- Traffic modelling
- Traffic Modelling V model

Received on 02/10/2023.

- Traffic Modelling 1
- Traffic modelling 2
- Traffic Modelling 3
- Traffic Modelling 4
- Traffic Modelling 6
- Traffic Modelling 7
- Traffic Modelling 5

Received on 03/10/2023.

- Amended tree planting proposal
- Amended tree planting plan

Received on 19/10/2023.

- Modelling route map

Received on 23/11/2023.

- Traffic Modelling AM Scenarios
- PM Peak Queues graphs
- AM Peak queues graphs

Received on 03/12/2023.

- Traffic Modelling PM Scenarios

Received on 20/12/2023.

- Traffic Modelling graphs
- Traffic Modelling graphs

Received on 13/02/2024.

- Applicant Response to Highways Letter

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

Following the Highway Authority's acceptance that since the Newbury College access road is private, and that it will not be possible for the Council to enter into a Section 38 agreement to have the roads within the residential development adopted as public highway, condition 16 is

now removed from the Committee report schedule of conditions. Other conditions will ensure the roads are designed to a highway standard.

Following the recommendation by the Environmental Health Officer, condition 23 of the Committee report is replaced by the below condition:

Scheme for the protection from external traffic and commercial noise.

Prior to above foundation level development taking place on the dwellings hereby permitted, details of a scheme for protecting the proposed dwellings / care home / hospice / gardens / external amenity areas of the approved development from external traffic and commercial noise sources shall be submitted, for written approval, to the Local Planning Authority.

The development shall not be occupied until the noise mitigation measure identified in the approved scheme, have been fully implemented. The noise mitigation measures shall be retained and maintained thereafter.

Reason: To protect future occupants of the development from noise from external noise. The approval of this information is required before occupation because insufficient information has been submitted with the application. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007), and Quality Design SPD.

Following the recommendation by the Environmental Health Officer, condition 32 of the Committee report is amended as follows:

Contamination land

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

1. Site Characterisation

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

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

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

2. Submission of Remediation Scheme

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

3. Implementation of Approved Remediation Scheme

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

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

4. Reporting of Unexpected Contamination

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

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

If required:

5. Long Term Monitoring and Maintenance

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

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This condition is applied in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

To clarify when the Biodiversity Enhancements details can be submitted, Condition 43 of the Committee report is amended as follows:

Biodiversity Enhancements

Prior to the above ground level development, full details of how the development will enhance biodiversity as a whole will be submitted to and approved in writing by the Local Planning Authority. Thereafter the details shall be implemented and retained as the approved details.

Reason: To secure detailed ecological mitigation and enhancement measures. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.

To clarify the hours of use and the delivery times as recommended by the Environmental Health Officer, condition 46 of the Committee report is amended as follows:

Hours of Store Use and Deliveries (Food store)

The retail unit hereby permitted shall trade only between the hours of:

- 08:00hrs and 22:00hrs Monday - Saturday (and on Bank Holidays) and
- 10:00hrs and 18:00hrs on Sundays.

No deliveries (including collection of waste) shall be despatched or accepted outside the following times.

- Monday to Saturday (and on Bank Holidays) – 07:00hrs and 20:00hrs
- Sundays – 09:00hrs and 20:00hrs

Vehicle engines and refrigeration units shall be switched off during deliveries and no engine idling shall be permitted.

Reason: To protect the amenity of residents living in the vicinity of the site and to reduce impact on air quality. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), Policy OVS.6 of

the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007), and Quality Design SPD.

Following the recommendation by the Environmental Health Officer, condition 47 of the Committee report is amended as follows:

Control of noise from Food Store (deliveries and mechanical plant)

The food store (Class E(a)) hereby permitted shall not be first used until details for the control of noise emanating from the Class E(a) use (e.g. from deliveries and mechanical plant) have been submitted to and approved in writing by the Local Planning Authority. The noise rating level therefrom shall not exceed the existing background noise level when measured in accordance with BS4142:2014+A1:2019. Thereafter, the use shall not commence until the approved scheme has been fully implemented.

Reason: To protect future residents of the site and the occupants of nearby residential properties from noise. The approval of this information is required before occupation because insufficient information has been submitted with the application. 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).

Following the recommendation by the Environmental Health Officer, the below condition is added to the schedule of conditions recommended within the committee report:

Construction Method Statement – (Environmental Health)

No development shall take place until details of a scheme (Construction Method Statement) to control the environmental effects of the demolition and/or construction work has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- (i) the control of noise and vibration
- (ii) the control of dust, smell and other effluvia
- (iii) the control of rats and other vermin
- (iv) the control of surface water run-off
- (v) the proposed method of piling for foundations (if any)
- (vi) proposed construction and demolition working hours
- (vii) hours during the construction and demolition phase when delivery vehicles, or vehicles taking materials, are permitted to enter or leave the site.
- (viii) site lighting and hours

The development shall be carried out in accordance with the approved scheme.

Reason: In the interests of the amenities of the area. A pre-commencement condition is required because the Construction Method Statement must be adhered to during all demolition and construction operations. 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, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

3. Additional Representations Received

Since the publication of the committee report, three letters of representation objecting to the proposal have been received. One of the letters is a representation on behalf of Tesco Stores. The full representations may be viewed with the application documents on the Council's website, using the application reference. A summary of the points raised in these objections is outlined below:

- Failure of the sequential test including from lack of any review of un-marketed premises, particularly on the Newbury Retail Park,
- The application's unacceptable contribution to potentially severe traffic conditions which would not be mitigated for an unknown number of years, and
- Lack of a properly cast planning balance that serves to justify refusal of permission.
- Already overloaded and congested local roads, Monks Lane, A339 and the Andover Road.
- Department Of Transport stated poor planning decisions in West Berkshire have reverted Newbury's traffic problems to how it was prior to the A34 diversion.
- Schools, care homes, Industrial and commercial premises will bring heavy goods lorries on to roads not fit for purpose. This will further add to an already massive traffic problem.
- Concerns with regard to the lack of detail within the Care Home and Hospice facilities proposal.

Regarding the retail sequential test, the Local Planning Authority is the decision taker and officers are satisfied that the sequential testing methodology set out in the NPPF and local policy has been satisfied by the applicant's submissions. Officers requested that the applicant submit additional assessments to supplement the retail sequential test and these additional assessments were submitted and ensured that any potential opportunities were given due consideration and discounted.

Officers are satisfied that the traffic flow matters have been given the correct level of consideration as outlined in the Highway Authority Officer's consultation comments. In this regard, officers are satisfied that after extensive Highway considerations and traffic modelling the proposed development can be recommended for approval.

Officers would advise Members that the Care Home and Hospice facilities are proposed in outline and the detailed matters of layout, landscaping, appearance, scale are Reserved Matters. In establishing the principle of the Care Home and Hospice facilities, officers consulted the Council's Adult Social Care Service and the Berkshire West NHS Integrated Care Board. Officers will consult the Council's Adult Social Care Service and the Berkshire West NHS Integrated Care Board at Reserved Matters stage to ensure the final development detail is fit for purpose.

Finally, officers are satisfied that the planning balance and conclusions are sufficiently addressed within the report and recommendation. As the decision taker, the Local Planning Authority has considered the relevant material considerations and requirements of policy to arrive at a point where a decision can be recommended to Committee Members. It is noted that the objection submitted on behalf of Tesco conflates the sentence "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise" (NPPF, para 2), and the mention of material considerations in the agenda report. It is a nonsense to suggest that

planning decisions are made in ignorance of all material considerations, which include, inter alia, the policies of the NPPF and development plan itself.

4. Additional Information

A correction is made to paragraph 6.23 of the Committee report, by replacing the figure 620 square metres which is a typing error with the correct figure of 1620 square metres.

During the committee site visit, queries were raised by Members on how drainage would be addressed on the site. Members are referred to paragraph 6.88 to 6.91, where officers outline that the Council's Lead Local Flood Authority raise no objection to the submitted drainage addendum which concluded that there is sufficient capacity within the existing attenuation basin serving the College campus, south of the application site, to accommodate runoff from the development. The drainage addendum also provides further details on SUDs proposals, design exceedance, water quality and future adoption and maintenance. The Lead Local Flood Authority Officer also outlined that the Flood Risk Assessment and drainage strategy formats were acceptable and with that raised no objections subject to a planning condition securing finer details of the drainage strategy.

5. Updated Recommendation

The additional information has been considered by officers, the recommendation remains for approval as set out in the agenda committee report, subject to the amended conditions in the committee update report.