

<b>Item (1)</b>	22/02538/FUL
<b>Title of Report:</b>	Site Of Former Cope Hall Skinners Green Enborne Newbury
	Proposed new self-build, net zero carbon dwelling, improvement of 2no. existing accesses and associated landscaping on site of former Cope Hall residence.
<b>Report to be considered by:</b>	District Planning Committee
<b>Date of Meeting:</b>	11 <sup>th</sup> September 2024
<b>Forward Plan Ref:</b>	N/A

To view the plans and drawings relating to this application click the following link:  
<https://publicaccess.westberks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RJXXK6RD0S100>

<b>Purpose of Report:</b>	For the District Planning Committee to determine the planning application.
<b>Recommended Action:</b>	The Western Area Planning Committee resolved to grant planning permission contrary to officer recommendation.
<b>Reason for decision to be taken:</b>	The application has been referenced up by the Development Manager. The application, if approved, would be contrary to the provisions of the Development Plan and the guidance contained in the National Planning Policy Framework, as well as contrary to an Appeal Decision for an identical scheme on the site.
<b>Key background documentation:</b>	Appendix 1: Western Area Planning Committee Agenda Report 16 <sup>th</sup> July 2024 Appendix 1a: Appeal Decision for 22/01295/FULD Appendix 2: Update Report for this item at the Western Area Planning Committee 16th July 2024 Appendix 3: Printed draft minutes of the Western Area Planning Committee 16th July 2024

<b>Key aims N/A</b>
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<b>Portfolio Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Denise Gaines
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<b>Date Portfolio Member agreed report:</b>	To be advised.
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<b>Contact Officer Details</b>	
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## Implications

<b>Policy:</b>	The proposal conflicts with the NPPF, Policies ADPP1, CS14, CS17 and CS19 of the West Berkshire Core Strategy 2006-2026, Policies C1 and C3 of the Housing Site Allocations DPD 2006-2026, West Berkshire Council's Quality Design Supplementary Planning Document (2006).
<b>Financial:</b>	Should the application be approved and implemented it will be liable for the Community Infrastructure Levy and contributions. Should the application be approved there is also the risk of costs associated with a third-party legal challenge given the appeal inspectors clear reasons for dismissing an identical scheme in April 2023.
<b>Personnel:</b>	N/A
<b>Legal/Procurement:</b>	N/A
<b>Property:</b>	N/A
<b>Risk Management:</b>	As per the financial and policy implications outlined above.
<b>Equalities Impact Assessment:</b>	N/A

## EXECUTIVE SUMMARY

### 1. INTRODUCTION

- 1.1 On 16<sup>th</sup> July 2024, the Western Area Planning Committee considered the Agenda and Update Report for this full application for the construction of a new self-build, net zero carbon dwelling, improvement of 2no. existing accesses and associated landscaping on the site formerly occupied by Cope Hall and associated outbuildings (all of which were demolished in the 1960's).
- 1.2 The application site is located outside of any identified settlement boundary and therefore is in open countryside for planning purposes.
- 1.3 The Officer recommendation was for refusal due to its conflict with the NPPF, Policies ADPP1, CS14, CS17 and CS19 of the West Berkshire Core Strategy

2006-2026, Policies C1 and C3 of the Housing Site Allocations DPD 2006-2026, West Berkshire Council's Quality Design Supplementary Planning Document (2006).

- 1.4 The officers also took into account the recent appeal which was dismissed for an identical scheme on the site (application 22/01295/FULD). This was dismissed at appeal on the 4th April 2023. This appeal decision is a relevant material consideration in the determination of this application, and one which attracts significant weight given that it is for substantially the same scheme. The report to the Western Area Planning Committee and the Appeal Decision referred to are attached.
- 1.5 The Western Area Planning Committee however voted to approve the application as the majority of Members were of the view that the proposed dwelling was of a high standard of design which took appropriate account of its rural surroundings. As such they were satisfied that that the design of the proposal would be of such exceptional quality to justify an exception to the Council's spatial strategy. They also acknowledged the strong support the proposal had from local residents.
- 1.6 The Development Manager under his delegated powers determined that approval of the scheme would comprise a departure from the Development Plan and would also be contrary to the Appeal Inspector's clear decision to refuse the previous identical application. For these reasons the application needs to be determined by the District Planning Committee due to its strategic implications for the implementation of the aims of the development plan across the whole District.
- 1.7 As Members will note from both the Officers' Report to the Western Area Planning Committee and the Appeal Inspector's decision to refuse the previous identical application, the adopted planning policy position both under national and local planning policies is quite clear with regards to avoiding the development of isolated dwellings in the countryside, unless in exceptional circumstances.
- 1.8 It is important to note that there has been no material change in circumstances since the Planning Inspector's decision to dismiss the previous identical proposal in April 2023.
- 1.9 Planning case law has established the "principle of consistency" in decision-taking. The principle is not that like cases must be determined alike, but a decision-taker ought, when considering a materially similar proposal, to have regard to the principle of consistency, to have good reason if deciding to depart from the previous decision, and to give reasons for any such departure. Often this will be based on a change in circumstance or policy.
- 1.10 Failure to have due regard to a relevant material consideration is a ground to find a decision unsound through a Judicial Review.
- 1.11 It is within the gift of the planning committee to depart from officers' recommendations and to give different or no weight to relevant appeal decisions, but there must be reasonable, rational and evidential reasons for doing so. In this instance there has been no material change in circumstances in the intervening period and no substantive evidence has been provided to the Council to rebut the Planning Inspectors findings.

- 1.12 The District Planning Committee Member's attention is drawn to paragraph 19 of the Appeal Inspector's decision which noted the lack of substantive evidence to demonstrate exceptional design quality:

*"19. The Framework only permits isolated homes in the countryside in limited circumstances, one being at paragraph 80(e) where the design of the proposal is of exceptional quality. The appellant was entitled not to submit the proposal to the Council's Design Review Panel. However, little substantive evidence has been provided to demonstrate that the design of the proposal would be of exceptional quality or truly outstanding to justify an exception to the Council's spatial strategy. Furthermore, I have found that it would not be sensitive to the defining characteristics of the local area."*

- 1.13 Officer's advised Members of the Western Area Planning Committee that if the applicant were to submit the scheme to an independent design review panel (which is strongly recommended for schemes trying to achieve the extremely high bar of exceptional design) and receive a positive review then this would be new substantive evidence which would be a material consideration in determining the planning application.
- 1.14 Unfortunately, the applicant declined to take the scheme to an independent design review panel following the Western Area Planning Committee.
- 1.15 Member's attention is drawn to the receipt of an objection from Lichfields planning consultants on behalf of a neighbouring property. The objection letter raises concerns that no amendments have been made or substantive new evidence supplied by the applicant to seek to overcome the reasons for the dismissed appeal i.e. character and appearance of the area (the design/siting etc of the proposal has not changed) and conflict with the Council's strategy for the distribution of development (a summary of their objections can be found in the Update Report for this item at the Western Area Planning Committee 16th July 2024).
- 1.16 Members are therefore advised that should the application be approved there is a risk of a third-party legal challenge given the appeal inspector's clear reasons for dismissing an identical scheme in April 2023, and the lack of any material change in circumstances since the appeal.

## **2. CONCLUSION**

- 2.1 There has been no material change in circumstances in the intervening period and no substantive evidence to demonstrate that the design of the proposal would be of exceptional quality or truly outstanding to justify an exception to the Council's spatial strategy policies.
- 2.2 Should the application be approved, it would undermine National and Local Planning Policy as it would permit an isolated dwelling in the countryside which would harm the intrinsic rural character of the area. Therefore, the officer recommendation remains one of refusal.

### **3. RECOMMENDATION**

To **DELEGATE** to the Development Manager to **REFUSE PLANNING PERMISSION** for the following reasons:

#### **1. Principle of development**

The Housing Site Allocation Development Plan Development (HSADPD) was adopted by the Council on 9<sup>th</sup> May 2017 and is part of the development plan for the District. The HSADPD sets out policies for managing housing development in the countryside. This includes policy C1, which outlines that there is a presumption against new residential development outside of the settlement boundaries and lists some exceptions to this. The proposal dwelling does not fall under one of the exceptions listed.

Policy C1 states that in settlements in the countryside with no defined settlement boundary (such as Enborne), limited infill development may be considered subject to a set criteria. It is considered that the development fails to comply with all the bullet points of Policy C1. The dwellings along this area have open spaces between the dwellings, as such the dwellings cannot be viewed as a closely knit cluster of 10 or more existing dwellings.

Policy C3 sets out that the design of housing in the countryside must have regard to the impact individually and collectively on the landscape character of the area and its sensitivity to change. In assessing the potential impact on local character particular regard has been taken on the sensitivity of the landscape to the development being proposed and the capacity of that landscape to be able to accommodate that type of development without significant effects on its overall landscape character.

The proposed new dwelling would be contrary to the National Planning Policy Framework and Policies ADPP1, CS1, CS14, CS17 and CS19 the West Berkshire Core Strategy (2006-2026), Policies C1 and C3 of the West Berkshire HSA DPD (2006-2006), and the Quality Design Supplementary Planning Document (2006).

#### **2. Design and character of the area**

The proposed development would result in the suburbanising effect on the open countryside. The introduction of a new built form which is overtly residential would result in a jarring relationship with the open countryside. The design of the development is not considered exceptional quality or innovative under the NPPF. The proposed dwelling is considered inappropriate in terms of the location, scale and design in the context of the character of the area.

The proposal scheme is contrary to the National Planning Policy Framework and Policies CS14 and CS19 of West Berkshire Councils Core Strategy 2006-2026, policy C3 of West Berkshire Councils Housing Site Allocation DPD, West Berkshire Councils Quality Design SPD.

### 3. **Impact on Biodiversity**

The proposed development would have significant impacts on the deciduous woodland priority habitat and the biodiversity losses that will result from the submitted application. In addition, the proposed residential use of the woodland site would result in disturbance to wildlife.

The proposed development would fail to comply with the NPPF and Policy CS17 of the WBCS and the Natural Environment and Rural Communities Act, 2006.

### **Appendices**

1. WAP Committee Report and Appendices of 16<sup>th</sup> July 2024.
2. Update Report of WAP on 16<sup>th</sup> July 2024.
3. Printed Draft Minutes of Meeting held on 16<sup>th</sup> July 2024.