

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	24/00533/FULMAJ Sulhamstead	14 th June 2024 ¹	Section 73a: Variation of conditions 16 (Private Equestrian Use), 4 (CEMP), 6 (Landscaping), 7 (Biodiversity Mitigation and Enhancement Plan) and 15 (Manure Storage and Disposal) and remove condition 5 (Tree Protection) of previously approved application 21/03260/COMIND: Change of use of agricultural land to equestrian and erection of stable block/yard, menage and creation of associated access. Retention of 4 No. temporary field shelters and mobile stable unit on skids Oakdown Fields, Shortheath Lane, Sulhamstead, Reading Mrs and Mr Cottingham

¹ Extension of time agreed with applicant until 11th October 2024

The application can be viewed on the Council's website at the following link:
<https://publicaccess.westberks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SAE7OYRD0S100>

Recommendation Summary: To delegate to the Development Manager to GRANT PLANNING PERMISSION subject to the conditions

Ward Member(s): Councillor Ross Mackinnon

Reason for Committee Determination: More than 10 letters of objection received

Committee Site Visit: 2nd October 2024

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1. Introduction

- 1.1 The purpose of this report is for the Committee to consider the proposed development against the policies of the development plan and the relevant material considerations, and to make a decision as to whether to approve or refuse the application.
- 1.2 This application seeks to vary conditions 16 (private equestrian use), 4 (CEMP), 6 (landscaping), 7 (biodiversity mitigation and enhancement plan) and 15 (manure storage and disposal) and remove condition 5 (tree protection) of previously approved application 21/03260/COMIND.
- 1.3 The application site includes 6.92ha of land used for equestrian purposes as granted under 21/03260/COMIND. The land is to the south of Shorth Heath Lane and to the west of Burghfield Common. The stable block and manège granted permission under 21/03260/COMIND have been built and sit adjacent to the western boundary of the application site. The proposed access in the north-east corner is not yet constructed with the existing access to the north-west being utilised. The parking area has not yet been formalised.
- 1.4 The original permission 21/03260/COMIND granted the change of the use of the site from agricultural to equestrian and the erection of a stable block/yard and manège. The proposal also included the creation of an associated access and the retention of 4 temporary field shelters and mobile stable unit on skids.
- 1.5 This application originally sought to vary condition 16 which required the application site to only be used for private recreational equestrian purposes to allow for the use of the site for assisted livery purposes. It is intended that other people could keep their horses at the site, and these would primarily be looked after by the applicants with owners visiting occasionally. It is not intended for the site to be used for commercial riding, breeding or training.
- 1.6 During the application the proposal description was updated to include additional amendments to permission 21/03260/COMIND. This was to regularise conditions that had not been fully satisfied under 22/02542/COND or where details had not been submitted in line for the requirements of the condition. The following is proposed:
 - Vary the wording of condition 4 so that the construction of the new access (granted under 21/03260/COMIND) does not take place until a CEMP has been submitted and approved in writing by the Local Planning Authority.
 - Remove condition 5 for tree protection as this is no longer required.
 - Vary the wording of condition 6 for landscaping works to be carried out in accordance with details submitted with this application.
 - Vary the wording of condition 7 to require biodiversity enhancement measures to be submitted and approved in writing by the Local Planning Authority.
 - Vary the wording of condition 15 requiring the storage and disposal of manure is carried out in accordance with details submitted during the course of the application.
- 1.7 During the course of the application a Landscape and Ecological Management Plan was submitted to address the requirements of condition 4 and 7 to avoid the use of a condition requiring details.
- 1.8 Condition 8 related to external lighting is not intended to be varied or removed as part of this application. It is proposed that the external lighting that has been installed would be removed and that an application would be submitted to agree any external lighting details if the applicant wished to install external lighting.

2. Planning History

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

Application	Proposal	Decision / Date
22/02542/COND	Application for approval of details reserved by condition 1 'Commencement of Development', 3 'Construction Method Statement', 4 'Construction Environmental Management Plan', 5 'Tree Protection Scheme', 6 'Landscaping', 7 'Biodiversity Mitigation and Enhancement Plan', 9 'Ecology Report', 11 'Hours of Work' and 12 'Drainage' of approved application 21/03260/COMIND: Change of use of agricultural land to equestrian and erection of stable block/yard, menage and creation of associated access. Retention of 4 No. temporary field shelters and mobile stable unit on skids.	PART APPROVED/ PART REFUSED 17.08.2023
21/03260/COMIND	Change of use of agricultural land to equestrian and erection of stable block/yard, menage and creation of associated access. Retention of 4 No. temporary field shelters and mobile stable unit on skids.	APPROVED. 07.10.2022

2.2 21/03260/COMIND is the original permission which this application seeks to vary conditions.

2.3 22/02542/COND sought to approve details relating to permission 21/03260/COMIND. The split decision was as follows:

- Condition 1 (commencement) and 9 (ecology surveys): Development had commenced and it was considered that these conditions could be discharged.
- Condition 3 (Construction Method Statement) and 12 (Drainage): It was considered that the details were adequate, and these were approved.
- Condition 4 (CEMP), 5 (tree protection scheme), 6 (landscaping) and 7 (biodiversity mitigation and enhancement plan): Details were considered inadequate and therefore refused.
- 11 (hours of work): It was considered that the construction hours condition was adhered to and therefore discharged.

2.4 Permission 21/03260/COMIND is not considered to be invalid, and details required by condition can be dealt with under the current Section 73a. Case law advises a judgement must be made as to whether the conditions go to the heart of the permission as to whether the permission is made invalid. Whilst some of the conditions were pre-commencement this was due to requiring compliance with the conditions during construction and did not go to the heart of permission e.g. these details did not make the stables and change of use unacceptable. Furthermore 22/02542/COND discharged the commencement condition.

3. Legal and Procedural Matters

- 3.1 **Environmental Impact Assessments (EIA):** Under 21/03260/COMIND it was advised that due to the nature, scale and location 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. The proposed variations to the original permission are not considered to affect this assessment.
- 3.2 **Publicity:** Publicity has been undertaken in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and the Council's Statement of Community Involvement. Site notices were displayed on 24th April 2024 at Shortheath Lane, with a deadline for representations of 16th May 2024. A public notice was displayed in the Reading Chronicle on 4th April 2024; with a deadline for representations of 18th April 2024. An amended plans site notices were displayed on 31st July 2024 at Shortheath Lane and Hollybush Lane; with a deadline for representations of 21st August 2024.
- 3.3 **Local Financial Considerations:** Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. The table below identified the relevant local financial considerations for this proposal.

Consideration	Applicable to proposal	Material to decision	Refer to paragraph(s)
Community Infrastructure Levy (CIL)	No	No	3.4
New Homes Bonus	No	No	
Affordable Housing	No	No	
Public Open Space or Play Areas	No	No	
Developer Contributions (S106)	No	No	
Job Creation	Yes	Yes	6.7 & 7.1

- 3.4 **Community Infrastructure Levy (CIL):** CIL is a levy charged on most new development within an authority area. The money is used to pay for new infrastructure supporting the development of an area by funding the provision, replacement, operation or maintenance of infrastructure. This can include roads and transport facilities, schools and education facilities, flood defences, medical facilities, open spaces, and sports and recreational areas. CIL will be charged on residential (C3 and C4) and retail (A1 - A5) development at a rate per square metre (based on Gross Internal Area) on new development of more than 100 square metres of net floorspace (including extensions) or when a new dwelling is created (even if it is less than 100 square metres). The proposal does not fall within the development categories liable for CIL.

- 3.5 **Public Sector Equality Duty (PSED):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The Council must have due regard to the need to achieve the following objectives:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.6 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.7 The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have regard to and remove or minimise disadvantage. In considering the merits of this planning application, due regard has been given to these objectives.
- 3.8 There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.
- 3.9 **Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, including Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial) and Article 8 (Right to respect for private and family life and home) of the Act itself. The consideration of the application in accordance with the Council procedures will ensure that views of all those interested are taken into account. All comments from interested parties have been considered and reported in summary in this report, with full text available via the Council's website.
- 3.10 Letters of representation have raised issues regarding impact on amenity. However, any interference with the right to a private and family life and home arising from the scheme as a result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the district and wider area and is proportionate given the overall benefits of the scheme in terms of benefits to the rural economy.
- 3.11 Any interference with property rights is in the public interest and in accordance with the Town and Country Planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

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.

Sulhamstead Parish Council:	No objections, with the assumption that the other restrictions on the use of the site for commercial purposes would remain.
Adjacent: Ufton Nervet Parish Council:	Object: Concerns with suitability of Shortheath Lane and the impact to traffic. Queries whether commercial use is taking place.
Adjacent: Burghfield Parish Council:	No objection to original and amended submission.
WBC Highways:	Request for additional information regarding vehicle movements and car parking layout. Amended description & further information: No comments to make on amended layout drawings as these only relate to minor changes that do not impact on highway considerations. No objections to the variation of condition 16- full comments in report.
WBC Ecology:	Further information is required it is requested that a biodiversity mitigation and enhancement condition is required. Conditions for Construction Environmental Management Plan, Landscape and Ecological Management Plan and lighting strategy. Agreed with Ecologist different condition triggers due to stage of development. Amended description: No objection to variations of conditions. Landscape and Ecological Management Plan: no objection but would need to ensure any external lighting does not harm protected species.
WBC Trees:	Request for landscaping plan to include measures to protect root protection buffer. Amended Landscape Plan: With the tree protection annotation this is acceptable.
WBC Public Protection Partnership:	No objection to original and amended submission.
WBC Lead Local Flood Authority:	No comments to make on original and amended submission.
WBC Joint Emergency Planning Unit:	No adverse comments to make on original and amended submission.

Office for Nuclear Regulation:	No comment- does not meet consultation criteria.
WBC Planning Policy:	No comments received at time of writing the report.
Ward Member:	No comments received at time of writing the report.

Public representations

4.2 Representations have been received from 20 contributors, 7 of which support, and 13 of which object to the proposal.

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:

- Objection:
 - Impact on traffic and road safety: suitability of existing roads, damage to existing roads, increase in vehicle movements, use of existing access, already consider there has been a noticeable increase in traffic, request for cut-back of hedge on Shortheath Lane.
 - Intensification of use would harm the environment including noise, damage to surrounding bridleways, traffic.
 - Commercial use and buildings out of character with existing area.
 - No requirement for the livery yard within area.
 - Concerns with the location of the site in relation to AWE Burghfield DEPZ and that further information should be provided regarding public safety.
 - Potential breaches of planning control: already being used for commercial purposes, storage of vehicles, conditions on original permission not met.
- Support:
 - Request to control volume and timings of vehicles including no on road parking.
 - Supporting the local equestrian industry with the provision of a livery yard.
 - Suitable location for equestrian development.
 - In-keeping with the rural character of the area.
 - Impacts to infrastructure would be minimal.
 - Local business support and employment.
 - Preferential to housing development.

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, ADPP6, CS5, CS10, CS12, CS13, CS14, CS16, CS17, CS18, CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).

- Policies TRANS.1, OVS.5, OVS.6, ENV.29 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)
- WBC Quality Design SPD (2006)

6. Appraisal

6.1 The main issues for consideration in this application are:

- Principle of development
- Character and appearance
- Environmental impacts
- Highways
- Trees and ecology
- Other matters

Principle of development

6.2 Policy ADPP1 advises that only appropriate development in the countryside will be allowed focused on an identified needs and maintaining a strong rural economy. Policy ADPP6 seeks to strictly control development in the countryside.

6.3 Policy CS10 seeks appropriate farm diversification and support for small and medium business enterprises to maintain a strong rural economy. It is noted there is a particular support for diversification where they are located in or adjacent to a Rural Service Centre or Service Village. This is further supported through CS12 for proposed equestrian development that helps to strengthen the rural economy and increase opportunities for people to enjoy the countryside in a sustainable manner.

6.4 Saved Policy ENV.29 relates to the principle of stabling accommodation. In which stabling is required to meet criteria related to impact on the character of the area, amenity, highway safety and welfare of the horses.

6.5 The principle of changing the use of the site from agricultural land to equestrian use with associated development including stables, manège, new access and car parking area have been established by permission 21/03260/COMIND.

6.6 It is considered that the current development plan supports the use of the stable accommodation and the equestrian land for assisted livery purposes. Whilst Policy ADPP1 advises only appropriate development is allowed in the countryside, an equestrian use would be a typical rural use. In addition, the application site is located in close proximity to the Rural Service Centre of Burghfield Common (the closest eastern corner of the field is approximately 46 metres from the settlement boundary). Policy CS10 seeks to support farm diversification of sites adjacent to Rural Service Centres.

6.7 It is noted that letters of representation both argue for and against an identified need. However, the supporting information with the application advises that the proposed variation to condition 16 will allow for assisted livery services and permit the applicants to accommodate horses for a fee. It would also create employment for one full-time worker (the applicant's daughter) with some occasional part-time and weekend staff

opportunities. This aligns with the aims of Policy CS10 and CS12 which seek equestrian development that strengthens the rural economy.

- 6.8 The variations to conditions 4, 5, 6, 7 and 15 relate to development management considerations and therefore it is considered that these would not impact on the principle established under 21/03260/COMIND.

Character and appearance

- 6.9 Policy CS14 seeks development that must demonstrate high quality design that respects and enhances the character of the area. Development shall contribute positively to local distinctiveness and sense of place.
- 6.10 Policy CS19 requires particular regard given to the sensitivity of the area to change, ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character.
- 6.11 Saved Policy ENV.29 advises stables will be permitted where the design will blend into the landscape and the buildings would not urbanise an attractive rural area or spoil key views or vistas.
- 6.12 This application is not intended to change the built form and therefore these remain acceptable.
- 6.13 It is noted that letters of representation raise concerns with the commercial use and intensification that would result in harm to the rural character of the area.
- 6.14 It is acknowledged there may be some intensification of use if an assisted livery use was granted because there would be more visitors to the site because of horses being visited by their owners which would extend beyond the applicants. However, there is no intention to increase the number of horses kept at the site from the 16 that was agreed on the original permission. Furthermore, the applicants propose only one full-time worker to visit the site who would look after the horses which as a result would not require the owners visiting the site every day. It is therefore considered that any intensification of use would not be significantly different than that approved and not harmful to the rural character of the area.
- 6.15 Details of soft landscaping for condition 6 have been submitted as part of this application which included planting a hedge on the western boundary of the site with the retention of the roadside bank and hedge (apart from where the new access is proposed). This was considered to still maintain the rural character of the area. The plans indicate for the parking area a new bank will be proposed. It is suggested that this will be small in scale, however details are recommended to be dealt with by condition to ensure it would be acceptable. The knee rail is acceptable and the fence line to the south of the parking area has already been erected under permitted development.
- 6.16 Details for condition 15 (manure storage and disposal) do indicate that a storage container is stored on site and collected (every 1-2 months dependent on season and number of horses). The storage container does increase the number of equestrian paraphernalia on the site. It is considered that on balance this would be acceptable, but to prevent any further proliferation of equestrian paraphernalia on the site it is recommended that a condition be applied to this permission that no other materials, goods, storage containers etc. should be stored on the land particularly with the proposed change to the commercial use.
- 6.17 It is considered with the use of conditions that an acceptable impact on the character of the area could be secured.

Environmental impacts

- 6.18 Policy CS14 seeks development that will have a positive contribution to the quality of life in West Berkshire.
- 6.19 Saved Policy ENV.29 seeks buildings that would not cause a material loss for the occupants of the adjoining properties or other users of the countryside.
- 6.20 Saved Policies OVS.5 and OVS.6 seeks development that does not give rise to unacceptable pollution of the environment and that adverse impacts should be minimised include noise and waste disposal.
- 6.21 The built form is not proposed to be changed under this application and therefore physical impacts such as outlook, daylight/sunlight and privacy would remain unchanged.
- 6.22 Letters of representation raised concerns with noise generated from a commercial operation taking place from site. It is not considered that the assisted livery use would generate adverse noise impacts to be a nuisance to nearby residential properties. It is suggested that the hours visitors (other than employees/emergencies) are allowed to visit is restricted to help minimise disturbance through a condition. No objections from Public Protection Partnership have been received.
- 6.23 The impact from traffic from an environmental perspective is not considered to be harmful to warrant refusal as it is not considered that there would be a significant difference to that approved.
- 6.24 Details for condition 15 seek to deal with manure storage and management. No objections have been raised from consultees regarding the use of the storage container or the timings of removal. It is considered that this is acceptable, and the condition wording can be amended for manure storage and disposal to be carried out in accordance with the details submitted.

Highways

- 6.25 Policy CS13 and Saved Policy TRANS.1 relate to access, parking, turning and highways impacts of a development. Road safety is a key consideration for all development.
- 6.26 Saved Policy ENV.29 requires for stabling that the access to and from the public highway is in a location that would present a hazard to riders and other highway users.
- 6.27 One of the main issues raised in letters of objection was the impact on the highway in terms of traffic and road safety. These concerns were also shared by the adjacent parish Ufton Nervet Council. However, it is noted that letters of support consider the impact from allowing a livery use would have a minimal impact on the highway.
- 6.28 Following the receipt of additional information requested by the Highways Officer, the Highways Officer provided the following comments on the variation to condition 16 to allow for an assisted livery services:

This application seeks consent for the variation of this condition to allow for the site, and stables, to be used for liveries. The site is currently restricted to private recreational equestrian purposes only. No commercial uses are permitted, such as commercial riding, breeding, training or liveries. This application seeks consent for the variation of the above condition to allow for the use of the site for liveries, but the restrictions on no commercial riding, breeding or training would remain.

The existing permission allows for up to 16 stabled horses to be on site and this number would not change as a result of this application.

The applicant proposes to provide an assisted livery service whereby the horse owner is provided with a stable in which to keep their horse and a field for the horse to graze and exercise on.

I understand that the horses are to be kept on site as part of the livery service and would be primarily cared for by the applicant's daughter, who would be based on site as a full-time worker. I understand that this is quite normal practise for yards that have a livery service that someone looks after the horses for an assortment of owners.

It is unlikely that the owners would visit the site on a daily basis, and even if they did that would be 16 car movements in an out per day, and even that from a highways point of view would not be significant.

I note the concerns from objectors regarding horses being transported to and from the site but as with all horse yards that's unlikely to occur on a daily basis. I am not convinced that having the horses differently owned would mean significant additional journeys for them to be transported to from the site. If there are additional horsebox or trailer movements then I would consider overtime that they would be very low in number per week for what is a relatively small yard.

In conclusion, from the evidence put before me, I do not consider but the proposal would cause sufficient harm for us to recommend refusal. Therefore, all our previous comments still apply, and the local highway authority raises no objection.

- 6.29 This application does not intend to change the access and parking area approved under 21/03260/COMIND. As part of the original application visibility splays were provided for the new access and form part of the existing approved plans condition. It is noted that these have yet to be constructed and it is recommended before an assisted livery service commence that the access and parking area are constructed.
- 6.30 Whilst the objections are noted due to the proposed scale of the assisted livery service and that the number of horses will remain the same to that granted permission it is considered that the impact to the highways would not result in harm that would warrant refusal.

Trees and ecology

- 6.31 Policy CS17 seeks the conservation and enhancement of biodiversity assets across the District. Policies CS14 and CS18 are also relevant seeking the proposals enhancing biodiversity, opportunities for landscaping and the protection of green infrastructure.
- 6.32 The proposed amendment to allow for an assisted livery service would not impact upon the trees and ecology. However, details submitted in relation to other conditions do relate to the protection of biodiversity and trees.
- 6.33 With the original submission of the application, the Council's Ecologist requested that condition 4 regarding the Construction Ecological Management Plan (CEMP) be amended so that a plan could be agreed before works commence on the access and parking area. During the application a Landscape and Ecology Management Plan (LEMP) was submitted which sought to address the requirements of the CEMP condition. The Council's Ecologist was satisfied with this.

- 6.34 Regarding condition 7, the Council's Ecologist recommended that the condition be amended for these details to be submitted before works commence on the access and parking area and suggested an additional condition of a Landscape and Ecology Management Plan to ensure biodiversity is enhanced at the site. During the application a LEMP was submitted to address these requirements. The Council's Ecologist was satisfied with this.
- 6.35 It is recommended that conditions 4 and 7 are replaced with one condition for construction works and enhancement works be carried out in accordance with the LEMP submitted.
- 6.36 It was noted that the Council's Ecologist was concerned regarding the use of external lighting. The applicants are proposing to remove the existing lighting that has been installed. It is recommended that a condition be applied to require their removal within 1 month of this permission if granted approval. It was requested that an external lighting condition required consideration was given to areas particularly sensitive to bats and how the design would prevent any harm. This is because the Ecology Officer wanted to ensure that any car park lighting would not disturb the proposed bat boxes indicated in the LEMP. It is recommended that the condition be updated to reflect the Ecologists requirements.
- 6.37 The applicant is seeking the removal of condition 5 regarding tree protection measures during construction. Most works have been undertaken and therefore it is not possible to retrospectively require these details. The Tree Officer has not requested the condition be re-applied for remaining works. An informative is advised to be applied for tree protection measures for the remaining construction.
- 6.38 The applicant sought to submit details for the soft landscaping condition this would vary condition 6 which required details to be submitted before the use commences. The Tree Officer did not agree to the first plan submitted because it did not include measures to protect the 5-metre root protection area and there were concerns that cars may park in this area. A new plan was submitted on 05.09.2024 this was considered acceptable to the Tree Officer. It is recommended a condition is applied which requires landscaping in accordance with the submitted plan and specifying that the knee fence shall be poisoned 5 metres from the hedge to form the root protection buffer.
- 6.39 Whilst it has not been possible to secure protections for works that have taken place it is considered the details submitted would minimise the impact to trees and ecology and on balance it is considered to be acceptable.

Other matters

- 6.40 Flooding and Drainage: the proposed variations and removal of conditions does not impact on flooding and drainage. The Lead Local Flood Authority considered they did not need to provide further comments.
- 6.41 Detailed Emergency Planning Zone (DEPZ): The site sits on the boundary with the DEPZ for AWE Burghfield. It is noted a letter of representation has raised concerns regarding public safety and the DEPZ in relation to this development. However, the Joint Emergency Planning Unit consider that since there are no residential units proposed and there continues to be a defining gap between the current DEPZ and Ufton Nerve there was no adverse comments to make. The Office for Nuclear Regulation did not wish to comment on this application.
- 6.42 Horse welfare: Saved Policy ENV.29 requires consideration to be given to whether there is sufficient space and land to accommodate the number of horses. The amendments

proposed to 21/03260/COMIND do not alter the number of horses and therefore this is still considered to be acceptable.

- 6.43 Potential breaches of planning control: It is noted in letters of representation refer to breaches in the conditions on 21/03260/COMIND and that the site is potentially being used for commercial purposes before a decision on this application. It is unfortunate that works had taken place without securing tree protection and biodiversity measures which cannot be addressed retrospectively, however details submitted with this application seek to regularise and mitigate impacts of the development. It is noted that there is a live enforcement case for this site, but this permission would regularise any commercial activity if this has taken place on site. It is not a material planning consideration that this application is made retrospectively.

Update

- 6.44 The applicant requested amendments to proposed conditions 14 (New Bank), 16 (Restriction on externally stored equestrian paraphernalia) and 17 (Visitor Hours). These were considered as part of the Update Report to committee and this consideration is repeated below.

The applicant has suggested that the condition for the new bank could be amended to require that the bank shall match the roadside bank in height and appearance. It is suggested that this amendment to the condition is acceptable as this would mean the new bank would not result in harm to the character of the area.

The applicant has raised concerns that condition 16 would make it difficult to properly manage the land effectively. It is suggested to assist with the management of the land that the condition is amended to remove the word operated and include a caveat for equipment required for the maintenance of the land. Concerns were raised with the use of the of equestrian paraphernalia it is considered that this is both reasonable and precise as it intends to cover other items equipment required for equestrian purposes and is also described in the preceding list.

Regarding the visiting hours, a small extension to those recommended in the condition is proposed to accommodate the greater opportunity in summer for owners to visit their horses. It is suggested that visits could commence from 07:00 and finish at 20:00. It is considered the slight variation would both still safeguard the living conditions of surrounding occupiers and the rural character of the area. Due to the proposed use as an assisted livery where care will be predominately carried out by an employee it is not considered that visitor hours would need to be further extended to protect the welfare of the horses. A condition is still considered necessary to protect amenity of nearby residential dwellings (objections received did relate to noise) and the reason will be updated to also include that the protection of the rural character of the area.

- 6.45 The conditions in this agenda report have been updated to reflect the changes suggested in the Update Report.

7. Planning Balance and Conclusion

- 7.1 The proposed variation to condition 16 to allow for an assisted livery service at Oakdown Fields would in principle be supported. This variation to the condition would deliver some minor economic and social benefits due to the creation of a full-time job and some

occasional weekend staff. It would help to maintain a strong rural economy in accordance with Policy ADPP1, CS10 and CS12 in the Core Strategy. It is acknowledged there is some support for this proposal from the public regards to the provision of the assisted livery service.

7.2 However, it is noted that there are objections to the proposal in terms of traffic, road safety and environmental impacts. With the use of conditions, it is considered that the impact on character of the area, amenity, trees and ecology can be minimised. Furthermore, it was considered that the proposed intensification of the use would not have a significant impact to the highway. These matters are given neutral weight in the planning balance.

7.3 It is therefore considered the proposed variations and removal of conditions proposed to 21/03260/COMIND would be acceptable and conditional approval is recommended.

7.4 The following is proposed for the conditions on 21/03260/COMIND:

- Condition 1 (commencement of development) and 9 (validity of ecology surveys) of 21/03260/COMIND have been discharged and therefore are not recommended to be re-applied.
- Condition 2 (approved plans), 10 (materials), 11 (hours of work), 13 (number of horses), 14 (hay store/tack room use) are recommended to remain the same as approved on 21/03260/COMIND.
- Condition 3 (construction method statement) and Condition 12 (drainage) shall be amended for these to be carried out in accordance details approved by 22/02542/COND.
- Condition 4 (CEMP) and condition 7 (biodiversity mitigation and enhancement plan) shall be amended into one condition for details to be implemented in accordance with the Landscape and Ecological Management Plan submitted as part of this application.
- Condition 5 (tree protection) is recommended for removal.
- Condition 6 (landscaping) a condition requiring the remaining landscaping to be implemented in accordance with the Layout Plan received on 05.09.2024 with the root protection buffer.
- Condition 8 (lighting strategy) the wording is proposed to be amended to meet the requirements of the Ecology Officer.
- Condition 15 (manure storage and disposal) the use shall be carried out in accordance with the measures submitted with this application.
- Condition 16 (private equestrian use only) is amended to only allow for assisted livery use to be undertaken at this site. This would prevent any other commercial activity taking place on the site without an application for this purpose. This condition has been amended from the first agenda report for precision.

8. Full Recommendation

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

Conditions

1. Approved plans

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

- J0045728-21-03 Location Plan received 28.01.2022;
- Block Plan Showing Parking received 22.02.2022;
- Stable Proposed Side Elevations received 28.01.2022;
- Stable Proposed Front/Rear Elevations received 28.01.2022;
- Stable Proposed Internal Side Elevations received 28.01.2022;
- Stable Proposed Internal Front/Rear Elevations received 28.01.2022;
- Proposed Arena Fencing received 28.01.2022;
- Stable Yard Floor Plan received 28.01.2022;
- Menage Proposed Cross Sections 28.01.2022;
- Proposed Arena Surface Details received 28.01.2022
- Mobile Field Shelters received 22.02.2022;
- Twin Stable Elevations received 22.02.2022;
- Mobile Stable received 22.02.2022;
- Field Shelter 1 received 22.02.2022;
- J0045728-21-03 Proposed Mobile Shelters 22.02.2022;
- Information on Proposed Gateway received 22.02.2022
- Plan 8490/201 Site Access & Visibility Splay received 09.03.2022
- Parking Plan with 5m Hedge Root Protection Zone received 31.03.2022

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

2. Construction Method Statement

The remaining construction works hereby approved shall be constructed in accordance with the Method Statement received on 19.02.2022.

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).

3. Construction Environmental Management Plan and Landscape and Ecological Management Plan

All ecological measures and/or works shall be carried out in accordance with the details contained in Landscape and Ecological Management Plan (Arbtech, Updated 2.0) received on 30.08.2024 as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

Reason: To ensure the conservation and enhancement of biodiversity assets of the site. This condition is applied in accordance with the National Planning Policy Framework and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

4. Landscaping

The hard and soft landscaping detailed on Layout Plan received on 05.09.2024 shall be implemented prior to the assisted livery is brought into use. The rail 'knee fence' shall be built in accordance with the details provided in email on 27.08.2024 and maintain a 5 metre buffer from the hedge on the northern boundary of the site as confirmed by email received on 26.09.2024.

Any trees, shrubs or plants that die or become seriously damaged within five years of this development shall be replaced in the following year by plants of the same size and species.

Reason: To safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity 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 in accordance with the National Planning Policy Framework and Policies ADPP1, CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy (2006-2026).

5. **Lighting Strategy (Landscape/Ecology)**

No external lighting shall be installed until a lighting strategy 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 breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- 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; and
- c) Ensure all lighting levels are designed within the limitations of the appropriate lighting zone, as described by the Institute of Lighting Engineers.

No external lighting shall be installed within the application site except in accordance with the above strategy.

Reason: To ensure the conservation and enhancement of the biodiversity assets of the site, and ensure lighting is appropriate within the landscape. This condition is applied in accordance with the National Planning Policy Framework, and Policies CS17 and CS19 of the West Berkshire Core Strategy (2006-2026).

6. **Materials**

The materials to be used in the development hereby permitted shall be as specified on the plans and the application forms.

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).

7. **Hours of work (construction/demolition)**

No demolition or construction works shall take place outside the following hours, unless otherwise agreed in writing by the Local Planning Authority:

8:30am to 6:00pm Mondays to Fridays;

9:00am 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. **Drainage**

The drainage measures constructed in accordance with the Surface Water Strategy Revised Layout May 2023 shall be maintained hereafter.

Reason: To ensure that surface water will be managed in a sustainable manner. This condition is imposed 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), Sustainable Drainage SPD (2008).

9. **Number of horses**

No more than 16 horses shall be stabled on the site at any one time.

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

10. **Hay store/tack room**

The bedding & hay store and tack area(s) as indicated on the plans submitted with the application shall be used solely for these purposes and shall not be used for the accommodation of horses.

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

11. **Manure storage and disposal**

The methods of storage and disposal of manure provided within Supporting Information (Carter Jonas, 23/07/2024) received on 24.07.2024 shall be implemented and carried out in accordance with the approved details for the lifetime of the use.

Reason: To prevent the proliferation of manure which would detract from the rural character of the area and in the interests of amenity and to avoid any possible water/land contamination. This condition is applied in accordance with the National Planning Policy Framework, Policies CS12 of the West Berkshire Core Strategy (2006- 2026), and Policies OVS.5 and ENV.29 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

12. **Restriction on commercial use**

No trade, business or commercial use of any kind other than assisted livery services (described in Cover Letter by Carter Jonas received on 15.03.2024) shall be carried out from the application site.

Reason: To ensure the scale, character and intensity of the development is appropriate to its location in the interests of highways safety, amenity and rural character of the area. This condition is applied in accordance with the National Planning Policy Framework, Policies CS12, CS13, CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and Policies TRANS.1, OVS.5, OVS.6 and ENV.29 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

13. **Removal of existing external lighting**

Within one month of the decision, existing external lighting installed at the site shall be removed.

Reason: To ensure the conservation and enhancement of the biodiversity assets of the site, and ensure lighting is appropriate within the landscape. This condition is

applied in accordance with the National Planning Policy Framework, and Policies CS17 and CS19 of the West Berkshire Core Strategy (2006-2026).

14. **New Bank**

The new bank indicated on Layout Plan received on 05.09.2024 shall be of a similar appearance and match the height of the existing roadside bank immediately adjacent to the new bank.

Reason: To ensure the new bank would respect the character of the area. This condition is applied in accordance with the National Planning Policy Framework, and Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026).

15. **Vehicle access and parking**

Prior to the use of the stables and land for assisted livery purposes the new access and car parking area shown on the approved plans shall be constructed and brought into use. The car parking and access shall be maintained in that condition thereafter.

Reason: 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 TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

16. **Restriction on externally stored equestrian paraphernalia**

No materials, goods, plant, machinery, equipment, storage container, waste containers or other items of equestrian paraphernalia shall be stored, processed, repaired or displayed in the open land on the site other than that approved or such tools and equipment as required to carry out upkeep and maintenance of the land.

Reason: In the interest of the rural character of the site. This condition is applied in the accordance with the National Planning Policy Framework, Policies CS12, 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).

17. **Visitor hours**

The stable yard shall not be open to visitors (except for employees and in emergencies) outside of the following: 07:00 - 20:00 on every day of the week.

Reason: To safeguard the living conditions of surrounding occupiers and to protect the rural character 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 Polices ENV.29 and OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

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 worked proactively with the applicant to secure and accept what is considered to be a development which improves the economic, social and environmental conditions of the area.

2. **Part retrospective**

This planning permission is granted in accordance with Section 73 A of the Town and Country Planning Act 1990.

3. **Biodiversity Net Gain (Not required S73)**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be West Berkshire District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

EXEMPTIONS AND TRANSITIONAL ARRANGEMENTS

The following are the statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

APPLICABLE EXEMPTION

The exemption that is considered to apply to this application is: The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

- (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
- (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

IRREPLACEABLE HABITAT

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

THE EFFECT OF SECTION 73D OF THE TOWN AND COUNTRY PLANNING ACT 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

PHASED DEVELOPMENT

If the permission which has been granted has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 would apply if the permission were subject to the biodiversity gain condition.

In summary: Biodiversity gain plans would be required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).

4. **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.

5. **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.

6. **Trees**

- To ensure that the trees/hedges which are to be retained are protected from damage, ensure that all works occur in a direction away from the trees.
- In addition, that no materials are stored within close proximity i.e. underneath the canopy of trees/hedges to be retained.
- Ensure that all mixing of materials that could be harmful to tree/hedge roots is done well away from trees/hedges (outside the canopy drip line) and downhill of the trees if on a slope, to avoid contamination of the soil.
- To ensure the above, erect chestnut pale fencing on a scaffold framework at least out to the canopy extent to preserve rooting areas from compaction, chemicals or other unnatural substances washing into the soil.
- If this is not possible due to working room / access requirements The ground under the trees'/hedge canopies on the side of construction / access should be covered by 7.5cm of woodchip or a compressible material such as sharp sand and covered with plywood sheets / scaffold boards to prevent compaction

of the soil and roots. This could be underlain by a non-permeable membrane to prevent lime based products / chemicals entering the soil.

- If there are any existing roots in situ and the excavation is not to be immediately filled in, then they should be covered by loose soil or dry Hessian sacking to prevent desiccation or frost damage. If required, the minimum amount of root could be cut back using a sharp knife.
- If lime-based products are to be used for strip foundations then any roots found should be protected by a non-permeable membrane prior to the laying of concrete.