

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	24/01755/FUL	23 rd October 2024	Part retrospective change of use of land to mixed ancillary residential use with agricultural use, remodelling of land levels and rebuild of stables to an agricultural store. Land adjacent Twistle Cottage, Long Lane, Shaw. Mr Simpson.

¹ Extension of time agreed with applicant until 22nd November 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=SIO155RD0S100>

Recommendation Summary:	The Development Manager be authorised to GRANT conditional planning permission.
Ward Member(s):	Councillor Amirtharaj
Reason for Committee Determination:	Called in by Cllr Amirtharaj if the recommendation is to approve.
Committee Site Visit:	14 th November 2024.

Contact Officer Details

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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 planning permission for the change of use of land to a 'mixed agricultural and ancillary residential use'. To clarify the land until 2006 was used for the grazing of ponies for personal use, but since then any use has been abandoned. If approved the use of the land would be attached to the occupiers of Twistle Cottage lying to the west of the site. The application is part retrospective since some remodelling of the land on the site has already occurred.
- 1.3 The site in question was formerly the rail line serving Newbury to the north but was disused in 1976. It was then sold onto a private individual. The site visit will show that to the north of the site are the remains of the overbridge rail deck of an existing access running beneath. It is proposed as part of this scheme to re-use an existing vehicle access immediately to the east of the bridge abutment, with new gates set back and a small area of hardstanding for vehicle parking, turning area.
- 1.4 As part of the scheme the present land on the site will be remodelled to ensure it becomes flatter and more manageable for future use/maintenance. In addition, a dilapidated set of stables to the south boundary of the site are to be demolished and rebuilt as a modest agricultural store, for machinery to be stored safely on site.
- 1.5 The application site is rectangular in shape and lies outside any defined settlement boundary in the Local Plan. As such it lies in the open countryside in policy terms, albeit the site is very well screened to all sides by existing mature vegetation, the rail bridge and existing rear gardens.

2. Planning History

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

Application	Proposal	Decision / Date
74/01980/ADD	Construction of an agricultural dwelling. Refused and dismissed at appeal.	1975 and 1976
91/39424/ADD	Construction of 2 loose boxes and stables.	Approved 1991.

- 2.2 According to the confidential statement of truth submitted with the application by the previous owner of the site, the site has not been in any beneficial use post 2004.

3. Legal and Procedural Matters

- 3.1 **Environmental Impact Assessments (EIA):** Given 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.

- 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 notice was displayed on the 25th September 2024, with a deadline for representations of the 16th October 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. No local financial considerations are material to this application.
- 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). There are no implications under CIL for this application.
- 3.5 **New Homes Bonus (NHB):** New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. NHB money will be material to the planning application when it is reinvested in the local areas in which the developments generating the money are to be located, or when it is used for specific projects or infrastructure items which are likely to affect the operation or impacts of those developments. NHB is not considered to be a relevant material consideration in this instance, but can be noted for information.
- 3.6 **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.
- 3.7 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.

- 3.8 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.
- 3.9 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.
- 3.10 **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.
- 3.11 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.

Shaw Parish Council	Part object, part no objections. Object on the basis that how can the proposed use be a mixed one? This is unsatisfactory as the site lies in the countryside so should be agricultural alone. Also worried about the proposed access and levels changes. However, no objection to the agricultural store as such.
WBC Highways:	No objections but ask for more details on the proposed traffic movements to and from the site. This has been provided. No objections now raised.
Environmental Health.	Some concerns that the site may be contaminated so condition to be attached regarding unforeseen land contamination should that arise during the levelling process. Otherwise a working hours condition to be applied. Plus a CMS to be applied.

Archaeologist.	A form of recording of the bridge to the north would be helpful. More information requested. Photos of site submitted. The archaeologist considers no further recording condition is needed.
SUDS	No objections raised. The site lies in flood zone 1 and is less than 1ha in extent.
Tree officer	No objections raised. Whilst some low category trees are to be felled this can be mitigated by additional planting on site. Condition the arboricultural impact assessment.
Ecologist.	Views awaited on the Preliminary Ecological Assessment submitted. In terms of BNG this is accepted. Conditional permission is recommended.

Public representations

4.2 Representations have been received from 4 contributors, 2 of which support the application and 2 of which object.

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

4.4 Objection:

- The site lies outside the settlement boundary and should remain as agricultural only.
- It will impact on amenity.
- Worried about land contamination and the levelling proposed.
- No justification for the new access and gates into the site. However, do not object to the new agricultural store.
- Concern about the structural integrity of the bridge deck with the proximity of the access works to the deck supporting wall.

4.5 Supporter:

- Will prevent future development of the land for residential development.
- Makes use of the amenity of the land for an orchard and other horticultural activities.
- Will restore the very broken-down stables with a new build of the same design to be used as a store.

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, CS13, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policy C8 of the Housing Site Allocations Development Plan Document 2017 (HSA DPD).

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

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

5.3 The main issues for consideration in this application are:

- Principle of the development
- Ecology and Trees
- Other issues

6. Appraisal

Principle of Development

6.1 Policy C8 in the HSADPD relates to application for the extension of residential curtilages in the countryside and sets out the following:

“Extensions to existing residential curtilages will only be permitted where it can be shown that there is no adverse impact on the character and local distinctiveness of the rural area, the setting of the property within the wider landscape or encroachment on the rural area, public footpaths and on the amenity of local residents.

Proposals will be considered where:

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

Applications must be accompanied by details showing that:

- The boundary treatment of the extended curtilage is appropriate for the site and its rural surroundings.*
- All new hard surfacing, ground moulding or landscaping are in character with the surrounding area.*
- The forming of any new entrances or gateways, complete with visibility splays, do not result in the significant loss of landscape features or harm the character of the rural highway”.*

6.2 The case officer considers that the application site, whilst rural in nature, is very well screened from all directions and physically well contained.

6.3 The site is sandwiched between the residential curtilages of properties along Long Lane to the north-west and Sandymead House to the south-east.

6.4 No public footpaths adjoin the application site.

6.5 Accordingly, given these physical factors, it is considered that the use of the land at least in part as an extended curtilage to Twistle Cottage is acceptable as any visual impact or impact on local amenity will be small. In any event, should the Committee elect to

approve the application one condition strongly recommended to be attached will be the removal of all permitted domestic permitted development rights in the GPDO of 2015, so that future building/structures on the site will be fully controlled.

- 6.6 In relation to criterion1 [parking on site] this is not required as there is already parking within the existing curtilage of Twistle Cottage.
- 6.7 In relation to criterion 2 [realignment of garden boundary] it is noted that in comparison to many of the other dwellings surrounding the application site, their curtilages are much more expansive: for example, Sandymead House. So, whilst the garden extension is not required per se for amenity reasons, if the application is approved the new garden area would achieve a similar level of provision to other dwellings in the immediate area in accordance with Policy C8.
- 6.8 In terms of boundary treatments, these are considered appropriate to the local area and consist largely of natural vegetation and post and rails fencing.
- 6.9 Policy C8 specifically identifies whether any proposed new ground moulding and surfacing is acceptable. The site visit will show that the site is presently unattractive, with uneven ground for no purpose. The re-modelling of levels should both assist local drainage and improve the appearance of the site. The proposed new hardstanding to the north is considered to be a modest area in relation to the whole site, about 5% in total. Details of the hardstanding are required by condition to ensure that the materials used are appropriate to the rural character.
- 6.10 Finally, highways have raised no objections to the new access given the low vehicle flows on the access road [not adopted but private], the low speeds given the poor surface, and the fact that it is single carriageway.
- 6.11 Elevational details of the proposed new gates and brick piers are to be conditioned to ensure that they are appropriate to the rural character of the area.
- 6.12 To conclude, it is considered that the application conforms to the advice in policy C8 of the WBCS, and so is acceptable in principle.

Ecology and Trees

- 6.13 Core Strategy Policy CS17 states that biodiversity and geodiversity assets across West Berkshire will be conserved and enhanced. Habitats designated or proposed for designation as important for biodiversity or geodiversity at an international or national level or which support protected, rare or endangered species, will be protected and enhanced. The degree of protection given will be appropriate to the status of the site or species in terms of its international or national importance.
- 6.14 Development which may harm, either directly or indirectly,
- a) locally designated sites (Local Wildlife Sites and Local Geological Sites), or
 - b) habitats or species of principal importance for the purpose of conserving biodiversity, or
 - c) the integrity or continuity of landscape features of major importance for wild flora and fauna

will only be permitted if there are no reasonable alternatives and there are clear demonstrable social or economic benefits of regional or national importance that

outweigh the need to safeguard the site or species and that adequate compensation and mitigation measures are provided when damage to biodiversity/geodiversity interests are unavoidable.

- 6.15 Policies CS14 and CS18 are also relevant seeking the proposals enhancing biodiversity, opportunities for landscaping and the protection of green infrastructure.
- 6.16 The application has been accompanied by a Biodiversity Net Gain Assessment and a Preliminary Ecological Assessment. The Council's Ecologist has assessed both documents and has raised no objections subject to appropriate conditions.
- 6.17 An Arboricultural Impact Assessment has been submitted containing both an Arboricultural Method Statement and tree protection measures. The Tree Officer is satisfied with the assessment and the mitigation/protection measures proposed and therefore raises no objections.
- 6.18 Accordingly, the application complies with Policies CS14, CS17 and CS18.

Other issues

- 6.19 Firstly, the reason for the Committee call-in notes that the land is being developed into a car park, this is not correct. Only a small portion will be on the northern perimeter. Secondly the matter about the structural integrity of the bridge deck will be a civil matter for the applicant, should any problems arise on site when and if construction of the access begins. Thirdly, just because an application lies outside a settlement boundary does not mean no future development can occur, indeed, all of the built-up area of Shaw along this part of Long Lane lies in the countryside in policy terms. Fourthly, one objector has raised issues over the easements and deeds pertaining on the site which note it should remain agricultural. However, it is important to note that planning permission does not override existing restrictive covenants. Such matters are therefore civil matters between the relevant parties.
- 6.20 Issues have been raised about the potential for confusion between the description of the application, and the actual intended future use should the application be granted permission. In planning law it is possible to have mixed uses relating to land parcels such as this. It does not automatically make the scheme a sui generis use [use class of its own]. In this instance, whilst the officers have considered the application against the C8 criteria, it is still possible for e.g. sheep grazing to persist on the site in conjunction with the domestic use. The question remains as to whether, if permitted, actual harm will arise in planning terms, and in the light of this report, officers believe little, if any, harm will be caused. Therefore, the officers have not sought to alter the description of the application and indeed the applicant cannot be obliged to do so.

7. Planning Balance and Conclusion

- 7.1 The application has much to commend it. It will create a beneficial use of an unattractive and underused site, with little physical or visual/environmental harm arising.
- 7.2 For the reasons given above it is considered that the proposal does accord with the criteria of the National Planning Policy Framework and development plan policies and is therefore recommended for APPROVAL.

7.3 Full Recommendation

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

Conditions

1.	<p>Commencement of development</p> <p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
2.	<p>Approved plans</p> <p>The development hereby approved must be carried out in strict accord with the following approved plans.</p> <p>Location plan-UK maps -RG14 2TQ Proposed site plan-24022-PL102A Proposed agricultural store-24022-PL103.</p> <p>Reason. To clarify the permission.</p>
3	<p>CMS</p> <p>No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for:</p> <ul style="list-style-type: none">(a) A site set-up plan during the works;(b) Parking of vehicles of site operatives and visitors;(c) Loading and unloading of plant and materials;(d) Storage of plant and materials used in constructing the development;(e) Erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing;(f) Temporary access arrangements to the site, and any temporary hard-standing;(g) Wheel washing facilities;(h) Measures to control dust, dirt, noise, vibrations, odours, surface water run-off, and pests/vermin during construction;(i) A scheme for recycling/disposing of waste resulting from demolition and construction works;(j) Hours of construction and demolition work;(k) Hours of deliveries and preferred haulage routes; <p>Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007). A pre-</p>

	<p>commencement condition is required because the CMS must be adhered to during all demolition and construction operations.</p>
4	<p>Hours of working</p> <p>No demolition or construction works shall take place outside the following hours, unless otherwise agreed in writing by the Local Planning Authority: 7:30am to 6:00pm Mondays to Fridays; 8:30am to 1:00pm Saturdays; No work shall be carried out at any time on Sundays or Bank Holidays.</p> <p>Reason: To safeguard the amenities of adjoining land uses and occupiers. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS14 of the West Berkshire Core Strategy 2006-2026.</p>
5	<p>Contaminated land</p> <p>If any previously unidentified contaminated land is found during demolition and/or construction activities, it shall be reported immediately in writing to the Local Planning Authority (LPA). Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be submitted and approved in writing by the LPA. These submissions shall be prepared by a competent person (a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation), and conducted in accordance with current best practice. The remediation scheme shall ensure that, after remediation, as a minimum, the land shall not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Thereafter, any remediation measures shall be carried out in accordance with the approved details. Unless otherwise agreed in writing by the LPA, [the development shall not be occupied] until any approved remediation measures have been completed and a verification report to demonstrate the effectiveness of the remediation has been submitted to and approved in writing by the LPA.</p> <p>Reason: To ensure that any unexpected contamination encountered during the development is suitably assessed and dealt with, such that it does not pose an unacceptable risk to human health or the environment. This condition is applied in accordance with paragraphs 170, 178, 179 and 180 the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).</p>
6	<p>Removal of pd rights</p> <p>Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no buildings or other development which would otherwise be permitted by Schedule 2, Part 1, Classes A, B, C and/or E of that Order shall be carried out, without planning permission being granted by the Local Planning Authority on an application made for that purpose.</p> <p>Reason: To control the development of the site visually in accord with policy ADPP1 of the West Berkshire Core Strategy (2006-2026)</p>

7	<p>Pd rights-fencing</p> <p>Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no gates, fences, walls or other means of enclosure which would otherwise be permitted by Schedule 2, Part 2, Class A of that Order shall be erected, constructed, or materially altered without planning permission being granted by the Local Planning Authority on an application made for that purpose. This restriction excludes any development expressly permitted by this permission, and does not prevent repairs or replacements (in full or in part) that do not materially affect the external appearance of any gate, fence, wall or other means of enclosure.</p> <p>Reason: To prevent the erection of such development which may have an adverse impact on the rural character and appearance of the area, or fail to conserve the open landscape 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), Quality Design SPD (June 2006).</p>
8	<p>Arboricultural Impact Assessment</p> <p>The development shall be carried out in accordance with the Arboricultural works and tree protection measures identified in the Arboricultural Impact Assessment. No changes shall be made to the works unless amendments have been submitted to and approved in writing by the Local Planning Authority and shall include details of any changes to the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area.</p> <p>Reason: To ensure the protection of trees identified for retention at the site in accordance with the objectives of the NPPF and Policies CS18 and CS19 of the WBCS 2006 to 2026.</p>
9	<p>Ecology</p> <p>All ecological measures and/or works shall be carried out in accordance with the details contained in 'Preliminary ecological appraisal report' (August 2024, Collington Winter) as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.</p> <p>Reason: To ensure the adequate safeguarding of protected species in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.</p>
10	<p>BNG</p> <p>The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:</p> <p>(1) a non-technical summary;</p>

	<p>(2) the roles and responsibilities of the people or organisation(s) delivering the HMMP;</p> <p>(3) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;</p> <p>(4) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and</p> <p>(5) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,</p> <p>The details provided in relation to point (e) shall ensure that, as a minimum, monitoring takes place in 2 years, 5 years, 10 years, 15 years, 20 years, 25 years, 30 years following completion of the development. For the purposes of this condition, completion of development shall be taken as the 'erection of a replacement agricultural store', and the change of use of the land in question.</p> <p>No operation shall take place until:</p> <p>(6) the habitat creation and enhancement works set out in the approved HMMP have been completed; and</p> <p>(7) a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority.</p> <p>Notice in writing shall be given to the Council when the:</p> <p>(8) HMMP has been implemented; and</p> <p>(9) habitat creation and enhancement works as set out in the HMMP have been completed.</p> <p>The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.</p> <p>Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.</p> <p>Where monitoring identifies the required habitat condition is not being maintained in accordance with the Biodiversity Gain Plan, the submission to the Local Planning Authority shall include any necessary remedial measures, and thereafter any such measures shall be carried out within a timescale agreed with the Local Planning Authority. Supplemental reports may be required pursuant to this condition where necessary.</p> <p>Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990. A pre-commencement condition is required because the habitat and management arrangements need to be determined before existing habitats are affected.</p>
11	<p>Hardstanding</p> <p>No development shall commence until details of the surfacing of the proposed are of hardstanding are submitted to and approved by the Local Planning Authority. The development must be carried out in strict accord with those details and retained on site in perpetuity.</p> <p>Reason. To ensure permeability of the site and safety of vehicle movement is acceptable in accord with policies CS13 and CS16 on the WBCS of 2006 to 2026.</p>

12	<p>Gates</p> <p>No development shall commence until elevational details of the proposed new access gates and piers have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in strict accord with the approved details.</p> <p>Reason. To ensure the scheme is not visually harmful in connection with its surrounds in accord with the advice in policy CS14 in the WBCS of 2006 to 2026.</p>
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Informatives

1.	<p>Proactive</p> <p>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.</p>
2.	<p>Compliance with conditions</p> <p>Your attention is drawn to the conditions of this permission and to the Council's powers of enforcement, including the power to serve a Breach of Condition Notice under the Town and Country Planning Act 1990 (as amended). All Conditions must be complied with. If you wish to seek to amend a condition you should apply to do so under s.73 of the Act, explaining why you consider it is no longer necessary, or possible, to comply with a particular condition.</p>
3.	<p>Pre-conditions</p> <p>Conditions nos. 3, 10, 11 and 12 impose requirements which must be met prior to commencement of the development. Failure to observe these requirements could result in the Council taking enforcement action, or may invalidate the planning permission and render the whole of the development unlawful.</p>
4.	<p>Compliance with approved drawings</p> <p>Planning permission is hereby granted for the development as shown on the approved drawings. Any variation to the approved scheme may require further permission, and unauthorised variations may lay you open to planning enforcement action. You are advised to seek advice from the Local Planning Authority, before work commences, if you are thinking of introducing any variations to the approved development. Advice should urgently be sought if a problem occurs during approved works, but it is clearly preferable to seek advice at as early a stage as possible.</p>
5.	<p>Biodiversity Net Gain</p> <p>BIODIVERSITY NET GAIN</p>

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 application for planning permission 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).