

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(2)	23/02643/OUTMAJ Greenham	14 February 2024 <sup>1</sup>	Outline planning application for up to 9 no. dwellings and all associated works. Matters to be considered Access, Landscaping and Layout.  Premier Inn Pinchington Lane Newbury RG14 7HB  Whitbread Group PLC

<sup>1</sup> Extension of time agreed with applicant until 20<sup>th</sup> February 2025

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=S4FJBKRD09N00>

**Recommendation Summary:** PROVIDED THAT a Section 106 Agreement has been completed within 3 months (or such longer period that may be authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee), to delegate to the Development Manager to GRANT PLANNING PERMISSION subject to the conditions listed in section 8 of this report (or minor and inconsequential amendments to those conditions authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee).  
OR, if a Section 106 Agreement is not completed, to delegate to the Development Manager to REFUSE PLANNING PERMISSION for the reasons listed in section 8 of this report.

**Ward Member(s):** Councillor Phil Barnett, Councillor Billy Drummond, Councillor Erik Pattenden

**Reason for Committee Determination:** More than 10 objections received.

**Committee Site Visit:** 14<sup>th</sup> 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 outline planning permission for up to 9 no. dwellings and associated works. The matters to be considered in the determination of this application are Access, Landscaping and Layout. The Appearance and Scale of the development proposed would be dealt with separately under a subsequent reserved matters application should this application be approved.
- 1.3 The application site is approximately 1.6 ha and comprises the established Premier Inn hotel complex which has 113 bedrooms and an in-house restaurant to provide breakfast and evening meals for guests. The hotel is an 'L'-shaped building, which lies towards the west of the site. To the east of the site is a relatively large area of landscaping, with outdoor seating and planting. This area of landscaping previously accommodated a leisure block, which was historically used as a wedding venue and was demolished in 2015.
- 1.4 Car parking for the hotel is currently provided in various locations around the site, including directly to its east and west, but with four areas of parking also to the south. In total, the existing car park provides 117 spaces, including 4 disabled parking bays. Vehicular access to the hotel site is from Pinchington Lane, via The Triangle. Pedestrians can also access the site more directly, via a footpath from Deadmans Lane.
- 1.5 The site has established, mature tree planting and vegetation to all its boundaries. The trees are not protected by Tree Preservation Orders.
- 1.6 The site lies within a mixed-use area to the south of Newbury Town Centre. The site is bounded by commercial uses to its north and east, including a large Tesco Extra superstore and petrol station, and a range of car showrooms. To the south, on the opposite side of Deadmans Lane, is a residential estate. To the west of the application site is the A339, beyond which is Newbury College, Highwood Copse Primary school and a waste recycling centre.
- 1.7 The site is located within Flood Zone 1. The northern and eastern parts of the site are located within areas identified as at risk from surface water flooding in the Council's Strategic Flood Risk Assessment (SFRA).
- 1.8 The application proposes to relocate the existing hotel car park in the southern area of the site to the existing area of landscaped land to the east of the hotel (which was vacated and landscaped when the leisure block was demolished). The existing hotel car park area which lies along the southern boundary of the site will then be redeveloped to provide up to 9 new dwellings (5 no. 4 bed dwellings and 4 no. 3 bed dwellings). The proposed dwellings are to be accessed from Deadmans Lane.

## **2. Planning History**

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

Application	Proposal	Decision / Date
16/01410/COMIND	Erection of two-storey extension to form statement entrance, house new lift and a ground floor only restaurant and bar area	Approved 21/01/2016
16/02041/NONMAT	Non material Amendment to planning permission 16/01410/COMIND Amendments: Installation of external escape stair on southern-end elevation and conversion of existing internal escape stair to form two additional bedrooms with consequential changes to southern-end elevation. Installation of five roof ventilation "turrets" on roof of single storey extension (new restaurant)	Approved 25/08/2016
16/02226/COND1	Application for approval of Condition 3 - Samples of approved application 16/01410/COMIND - Erection of two-storey extension to form statement entrance, house new lift and a ground floor only restaurant and bar area.	Approved 19/09/2016
16/02715/COND2	Application for approval of details reserved by Conditions 4 - Soft landscaping, 5 - Surfacing materials and 6 - Lighting of approved application 16/01410/COMIND: Erection of two-storey extension to form statement entrance, house new lift and a ground floor only restaurant and bar area.	Approved 07/12/2016
16/02818/COMIND	Section 73: Variation of Condition 2: Approved plans of planning permission 16/01410/COMIND: Erection of two-storey extension to form statement entrance, house new lift and a ground floor only restaurant and bar area.	Approved 20/01/2017
21/00636/OUTMAJ	Outline planning application for up to 9 no. dwellings and all associated works. Matters to be considered Access, Layout and Landscaping.	Refused 30/06/2023  Appeal dismissed 10/10/24

2.2 The most relevant planning history for the development proposed is application 21/00636/OUTMAJ. That application sought outline permission for the same quantum of development as is proposed in this current application. It was refused for the following reasons:

1. The proposed layout does not comply with the Local Planning Authority's standards in respect of motor vehicle parking and this could result in on street parking in the vicinity, adversely affecting road safety and the flow of traffic.

As such the proposed development is contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026 and Policy P1 of the Housing Site Allocations DPD 2006-2026 and the National Planning Policy Framework.

2. The proposed development has not adequately demonstrated that it would conserve or enhance biodiversity, or, maximise opportunities to achieve net gains in biodiversity. Therefore, the application runs contrary to Policies CS14 and CS17 of the Core Strategy and the NPPF.
  3. The application fails to provide an appropriate planning obligation to deliver affordable housing. The district has a high affordable housing need and an affordability ratio above the national average. Compliance with Policy C6 through the provision of an affordable home is therefore necessary to make the development acceptable. In the absence of an appropriate planning obligation, the proposal is contrary to Policy CS6 of the West Berkshire Core Strategy 2006- 2026, the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.
- 2.3 During the determination of the appeal the applicant sought to provide amended plans and additional information to address the reasons for refusal. The Inspector permitted the consideration of additional information in respect of reasons for refusal 2 (biodiversity) and 3 (s106 agreement for affordable housing) but considered that the amended plans increasing the number of parking spaces provided in respect of refusal reason 1 represented a substantive change to the scheme considered and consulted on at the application stage. Therefore, the amended plans increasing the provision of parking spaces were not accepted by the Inspector and considered in the determination of the appeal.
- 2.4 The Inspector considered that the main issues in the determination of the appeal were the effect on highway safety and the flow of traffic and the effect on biodiversity. The Inspector concluded that the appeal should be dismissed as overspill parking resulting from the shortfall against parking standards would have an unacceptable effect on highway safety, as well as holding up the flow of traffic to and from nearby dwellings.
- 2.5 A copy of the appeal decision is provided at the end of this report.
- 2.6 The application before Members comprises the information presented to the Inspector at appeal, including the change to the provision of parking.

### **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 notices were displayed on 30 November 2023 at locations along Deadmans Lane, with a deadline for representations of 24 December 2023. A public notice was displayed in the Newbury Weekly News on 30 November 2023; with a deadline for representations of 14 December 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.

<b>Consideration</b>	<b>Applicable to proposal</b>	<b>Material to decision</b>	<b>Refer to paragraph(s)</b>
<b>Community Infrastructure Levy (CIL)</b>	Yes	No	
<b>New Homes Bonus</b>	Yes	No	
<b>Affordable Housing</b>	Yes	Yes	6.55 – 6.61
<b>Public Open Space or Play Areas</b>	No	No	
<b>Developer Contributions (S106)</b>	No	No	
<b>Job Creation</b>	No	No	

- 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).
- 3.5 As the application is made in outline, the likely CIL liability is not known. CIL liability is determined as reserved matters stage.
- 3.6 **New Homes Bonus (NHB):** New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. NHB is not considered to be a relevant material consideration in this instance but can be noted for information.
- 3.7 **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.

- 3.8 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.
- 3.9 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.
- 3.10 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.
- 3.11 All new buildings within the development will be required to comply with Building Regulations which have their own criteria to apply for the design of buildings which also has due regard to the Act.
- 3.12 **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.
- 3.13 It is acknowledged that there are certain properties where they may be some impact. 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 provision of housing, including affordable housing.
- 3.14 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.

<b>Greenham Parish Council:</b>	<p>Objection:</p> <ul style="list-style-type: none"> <li>Major development and not conforming to CS15 "Renewable energy. Major development shall achieve the following minimum reductions in total CO2 emissions (regulated and unregulated energy use) from renewable energy or low/zero carbon energy generation on site or in the locality of the development, as long as a direct physical connection is used, unless it can be demonstrated that such provision is not technically or economically viable.</li> <li>Issues with access given nature of the existing road and alternative already available through Premier inn</li> <li>Loss of Biodiversity.</li> <li>Large destruction of Trees and no clear demonstration of how a gain of 1.1 in biodiversity will be made.</li> </ul>
<b>Adjacent Newbury Town Council:</b>	<p>Objection:</p> <ul style="list-style-type: none"> <li>It will create additional traffic hazards on Deadman's Lane.</li> <li>The removal of an historic boundary of trees which also act as a sound barrier.</li> <li>No provision for refuse collection at the entrance to the private road.</li> <li>Inadequate car parking arrangements.</li> <li>Inadequate provision for emergency vehicles.</li> </ul>
<b>WBC Highways:</b>	No objections subject to conditions.
<b>WBC LLFA:</b>	No objections subject to a condition to secure sustainable drainage measures.
<b>WBC Archaeologist:</b>	No objections.
<b>WBC Tree Officer:</b>	No objections subject to conditions to secure landscaping, tree protection and arboricultural method statement.
<b>WBC Minerals and Waste Team:</b>	No objections.
<b>WBC Environmental Health:</b>	The application site is located on the site of an existing hotel, adjacent to the A339 road, and south and west of a Tesco Superstore and approximately 60m north-east of the recycling centre. The development could be adversely affected by road noise from these sources. A Noise Impact Assessment is required to consider the potential impact of these sources and whether this impacts on the proposed site layout, building design and any

	<p>mitigation that may be deemed necessary. The Noise Impact Assessment should be submitted prior to determination or application refused due to lack of information.</p> <p>In respect of construction noise and activities, request conditions restricting hours of work and dust mitigation measures.</p> <p>Conditions also requested to address potential contaminated land given the proposed residential use of the site.</p> <p>No concerns in respect of odour, air quality or external lighting.</p>
<b>WBC Ecologist (1<sup>st</sup> Response):</b>	Ecological appraisal is out of date. Updated appraisal required.
<b>WBC Ecologist (2<sup>nd</sup> response following submission of additional information):</b>	No objections subject to conditions to secure: Construction and Environmental Management Plan (CEMP), Landscape and Ecological Management Plan (LEMP), Protection of Breeding Birds During Construction, Lighting Design Strategy for light sensitive biodiversity, Biodiversity Measures, and further Ecological Surveys if development does not commence within 18 months of decision.
<b>WBC Economic Development Team:</b>	No objections.
<b>WBC Conservation and Design Officer:</b>	No response received.
<b>WBC Environment Delivery Team:</b>	No response received.
<b>WBC Waste Services:</b>	No response received.
<b>WBC Transport Policy:</b>	No response received.
<b>Environment Agency:</b>	Do not wish to be consulted.
<b>Active Travel England:</b>	No comment to make.
<b>Natural England:</b>	No response received.
<b>Southern Electric:</b>	No response received.
<b>Berkshire Newt Officer:</b>	No response received.



<b>SPOKES:</b>	No response received.
<b>Thames Water:</b>	No response received.
<b>Royal Berkshire Fire and Rescue:</b>	No response received.
<b>Thames Valley Police:</b>	No response received.

### ***Public representations***

4.2 Representations have been received from 32 contributors, all 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:

- Impact on highways from additional traffic particularly during school rush and evening.
- Deadman's Lane is narrow and has a blind bend
- Impact on safe access to park, school and neighbouring facilities.
- Impact on highway safety, particularly for pedestrians.
- Insufficient turning area for larger vehicles/refuse trucks and vehicles would reverse onto Deadman's Lane.
- Congestion on single track lane would cause accidents and obstructions including to emergency vehicles.
- Impact on mature trees which provide a sound barrier to road noise for residents in the area.
- Overdevelopment of the site.
- Loss of trees including mature trees and green space.
- Noise impact on existing and future residents from Tesco's including loading bay, generators etc.
- Impact on services in the area including schools and roads due to more housing.
- Lack of parking provision including visitor parking.
- Impact on character of area
- Application does not vary from that previously submitted.
- Impact on biodiversity and protected species/habitats.
- Lack of engagement with community.
- Lack of space for bin collection such that bins would have to be placed on Deadman's Lane for collection obstructing the highway.
- Swept path plans are incorrect and vehicles would not be able to reverse out of the driveways without obstructing vehicles on the road where there is little forward visibility.
- Risk of flooding.
- Proposed garden areas are too small.
- Light impact on residents from Tesco and Hotel due to loss of trees.
- Construction traffic would block road and cause hazard to pedestrians, particularly school children.
- Vehicle access to new houses should be via the hotel entrance.

- No information regarding foul sewage provided.
- No need for new housing due to the many houses being built in the area.
- Application does not address previous reasons for refusal.
- Difference in ground levels between the hotel car park and Deadman's Lane.
- Lack of information regarding surface water drainage given the ongoing problem from flooding after heavy rain.
- Deadman's Lane should be widened as part of the development.
- Construction vehicles should use the hotel vehicle entrance.
- Lack of footpath proposed.

## 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, ADPP2, CS1, CS4, CS5, CS6, CS13, CS14, CS15, CS16, CS17 and CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policy P1 of the Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD).
- Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).
- Policies 1 and 2 of the Replacement Minerals Local Plan for Berkshire 2001 (RMLP).

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)
- Planning Obligations SPD (2015)
- Sustainable Drainage Systems (SuDS) SPD (2018)
- Cycle and Motorcycle Advice and Standards for New Development (2014)
- Local Transport Plan for West Berkshire 2011-2026
- Manual for Streets
- West Berkshire Landscape Character Assessment (2019).

## 6. Appraisal

6.1 The main issues for consideration in this application are:

- Principle of Development
- Design, Character and Appearance
- Neighbouring Amenity
- Impact on Future Occupiers
- Highway Matters
- Flooding and Drainage
- Biodiversity
- Impact on Trees
- Sustainable Construction
- Affordable Housing

### ***Principle of Development***

- 6.2 Policies ADPP1 and ADPP2 set out the spatial strategy for development within the district and focuses new development and residential development within and adjacent to the existing settlement boundaries and says that the focus for the majority of the development will be within the urban area such as Newbury.
- 6.3 Therefore, the proposal for a residential development of up to 9 houses within the Newbury settlement, together with the associated changes to the hotel parking areas is considered to be acceptable in principle.

### ***Design, Character and Appearance***

- 6.4 This application is an outline application seeking approval of access, layout and landscaping only at this stage. Therefore, the scale and appearance of the proposed development are matters reserved to be considered at a later date, through subsequent reserved matters applications, should the outline application be approved.
- 6.5 Policies CS14 and CS19 of the Core Strategy require new development to demonstrate high quality and sustainable design which respects and enhances the character and appearance of the area. The policy goes on to state that good design relates to the way a development functions, and that the considerations of design and layout must be informed by the wider context, having regard not just to the immediate area, but to the wider locality.
- 6.6 The proposed parking layout to the east of the hotel would have little impact on the character and appearance of the area as that part of the site is well screened from the public realm at present and limited views only would be possible once the proposal is fully developed.
- 6.7 The proposed parking area to the east of the hotel would remove a large existing grassed area. The proposed housing would also result in the loss of a significant amount of existing vegetation is to be removed, comprising scrub and shrubs as well as 15 trees, 3 areas of hedgerow and 7 groups of trees, 13 of which are classed as low quality and value, and 12 moderate quality and value. None of the trees within the site proposed to be removed have been identified as trees of high quality.
- 6.8 The submitted landscaping masterplan proposes 77 new trees to be planted as part of the development, 25 within the remaining grounds of the hotel and 52 to the northern and southern boundaries of the area to be developed for housing. New mixed native hedgerow is also proposed to the northern boundary of the proposed gardens as well as along sections of the southern boundary fronting Deadmans Lane. Ornamental and mixed native hedgerow is also proposed to the front of the hotel, bordering the proposed new car parking areas.
- 6.9 It is acknowledged that the loss of the existing vegetation within the application site and development of the site for up to 9 dwellings would change the street scene of Deadmans Lane and character and appearance of the area. However, the introduction of up to 9 dwellings adjacent to an area already occupied by housing, together with the landscaping proposed, is not considered to harm the character and appearance of the area. The proposed and retained landscaping together with the layout of the proposed dwellings, is considered to provide a reasonable transition to the edge of the existing residential area.
- 6.10 Whilst the appearance and scale of the proposed dwellings would be considered in a subsequent reserved matters application, an indicative street scene and front elevation

has been provided. These show that the dwellings may be up to three storeys in height, with rooms within the roof.

- 6.11 The indicative appearance submitted would not be considered out of place with the residential development to the south, demonstrating that the appearance of up to 9 dwellings could be achieved, subject to detailed approval, without harming the character and appearance of the area.
- 6.12 It is acknowledged that the land on which the proposed dwellings are to be located is at a higher level than the road, ranging between approximately 1-1.5 metres. Very limited details of the existing or proposed grounds levels, or cross sections of the development in relation to ground levels surrounding the site have been provided. Clearly some engineering works and changes to levels will occur to enable vehicular accesses to the dwellings and level the ground for the dwellings, as well as potentially providing retaining features where levels are reduced adjacent to higher ground.
- 6.13 As such, it is likely that resultant ridge height of the dwellings proposed would be greater than those dwellings to the south which are set below the level of the road, particularly for the indicative three storey dwelling shown on plot 9. Whilst scale is not sought for approval at this stage, the indicative scale details submitted raise concern that the proposed dwellings have the potential to result in an imposing development within the street scene and character and appearance of the area when accounting for the topography to the south of the application site. However, that impact would be assessed at the reserved matters stage together with the appearance of the proposed dwellings to ensure that the proposal does not detrimentally impact on the character and appearance of the area.
- 6.14 In addition, a condition is proposed requiring details of existing and proposed ground and floor levels for the whole development to be approved, to ensure that the development proposed would not detrimentally impact on the character and appearance of the area and street scene.
- 6.15 It is important to note that the Inspector in their consideration of the appeal did not raise any concerns in respect of the impact on the character and appearance of the area from the development proposed.

### ***Neighbouring Amenity***

- 6.16 The existing residential dwellings to the south are set at a lower ground level than the application site due to topography. The layout of the proposed dwellings submitted show the following distances between the dwellings proposed and the neighbouring dwellings to the south of the application site:
- Front elevation of plot 1 would be located approximately 21 metres from the front elevation of No. 3 Deadmans Lane.
  - Front elevation of plot 2 would be located approximately 15 metres from the front elevation of No. 2 Deadmans Lane.
  - Front elevation of plot 3 would be located approximately 32 metres from the front elevation of No. 2 Deadmans Lane and approximately 36 metres (at a slight angle) from the front elevation of Bannatyne.
  - Front elevation of plot 4 would be located approximately 31 metres from the side elevation of Bannatyne.
  - Front elevation of plot 5 would be located approximately 31 metres from the side elevation of Bannatyne.
  - Front elevation of plot 6 would be located approximately 28 metres from the front elevation of No. 1 Deadmans Lane.

- Front elevation of plot 7 would be located approximately 28 metres from the front elevation of No. 1 Deadmans Lane.
- Front elevations of plots 8 and 9 would be located approximately 18 metres and 17 metres respectively from the side (blank) elevation of No. 34 Laurel Gardens.
- Front elevation of plot 9 would be located approximately 32 metres (at an angle) from the front elevation of No. 35 Laurel Gardens.

6.17 Due to the distances identified above between the proposed dwellings and existing neighbouring properties, the development proposed is not considered to introduce a significant overbearing impact on the outlook of neighbouring properties.

6.18 In respect of overlooking and loss of privacy, all of the distances between the front elevations of the proposed dwellings and the elevations of existing neighbouring dwellings with openings, except for one, meet or exceed 21 metres.

6.19 In the instance where the front elevation of one proposed dwelling (plot 2) is less than 21 metres, at 15 metres from the front elevation of No. 2 Deadmans Lane, a degree of overlooking and loss of privacy to that neighbouring elevation already exists given the close nature and level of the front elevation of No. 2 Deadmans Lane below the road, affording some views from users of the road and pavement into that property. Furthermore, the appearance of the front elevation of plot 2 is not for approval at this stage. Detailed design of the appearance (and scale including ground and floor levels) would be established under a separate application for the approval of that reserved matter, should this application be approved. Appropriate design of the proposed dwelling in terms of appearance and scale, including ground and floor levels, to reduce further any potential overlooking and loss of privacy for No. 2 Deadmans Lane can be achieved. In addition, landscaping in the form of trees and hedgerow is proposed across some of the frontage of plot 2, which, once established would further reduce overlooking and loss of privacy to No. 2 Deadmans Lane. Lastly, such window to window distances between the elevations of dwellings fronting a road is not uncommon in the immediate or wider area.

6.20 Therefore, whilst it is acknowledged that there will be some impact on the views from existing neighbouring properties along Deadmans Lane, and in one instance an increased risk of potential overlooking, subject to the detailed design (appearance) to be considered at reserved matters stage the impact on neighbouring amenity in respect of overlooking and loss of privacy is not sufficient to warrant a refusal.

6.21 As the application site is located to the north-west of the existing neighbouring properties, and due to the distances proposed between the proposed and existing dwellings, the development proposed is not considered to result in any detrimental impact in terms of loss of daylight or sunlight.

6.22 Many representations received raise concern regarding the loss of the existing vegetation and resultant impact on the views from neighbouring properties, as well as increased noise from the nearby commercial use. The right to a view is not a material planning consideration. The proposed development of houses would themselves introduce a greater noise barrier than trees and vegetation, particularly in the wintertime when that vegetation is not in leaf. Additional landscaping in the form of trees is also proposed which, once established, will also provide some additional barrier to noise. Furthermore, there is existing separate legislation for the control of noise and the planning process should not seek to duplicate controls that exist under other existing legislation. Lastly, the Environmental Health Officer has not raised any concerns in respect to the potential noise impact from the commercial estate or hotel on existing residents to the south.

- 6.23 In respect of the impact of construction on neighbouring amenity, the Environmental Health Officer has requested a construction hours of work condition and submission of a Construction Method Statement (CMS) by condition. Given the narrow nature of Deadmans Lane, and the potential impact on neighbouring amenity during construction, it is reasonable to include details of the haulage route for construction vehicles to be also required as part of the CMS condition, with the intention that HGVs access the site via the existing hotel access given the size of road and more direct access from the A339 to the site that would offer.
- 6.24 Subject to those conditions, and that construction would take place over a relatively short-term period, it is not considered that the construction of the development proposed would result in a detrimental impact on neighbouring amenity sufficient to warrant a refusal.
- 6.25 The vehicle movements associated with the new development, and the changes to the car parking layout for the hotel, are not considered to introduce any significant impact on neighbouring amenity in terms of noise or air pollution.
- 6.26 It is important to note that the Inspector in their consideration of the appeal did not raise any concerns in respect of the impact on neighbouring amenity from the development proposed.

### ***Impact on Future Occupiers***

- 6.27 As noted in the consultation response from the Environmental Health Team, a condition should be imposed should the application be approved, to secure a contaminated land assessment and any necessary remediation to ensure the land is suitable for the proposed residential use.
- 6.28 In addition, the Environmental Health Team raise concern that the future occupiers of the development may experience unacceptable levels of noise from the nearby A339 road, hotel and commercial activities at the nearby Tesco's. As such, the Environmental Health Team request that a noise assessment is undertaken to assess those impact and identify any mitigation measures that would be necessary prior to the application being determined.
- 6.29 It is important to note that the Environmental Health Team did not raise any concerns regarding noise in respect of the previous application, specifically advising that a noise assessment would not be necessary. There has been no material change in circumstances since that response was provided to justify a change in the position of the Environmental Health Team. Furthermore, the Inspector in considering the appeal for that application did not raise any concern regarding the impact on future occupiers from noise.
- 6.30 Whilst the Environmental Health Team request that such an assessment is completed prior to the application being determined, it is considered that the noise assessment and any identified mitigation measures can be adequately secured by planning condition, should the application be approved.
- 6.31 In respect of overlooking and lack of privacy for the proposed dwellings, due to the angles and distances involved from neighbouring properties the proposal is not considered to introduce any significant impact.
- 6.32 In respect of amenity provision for future occupants, Quality Design SPD sets out guidance for garden sizes for 3 and 4 bed dwellings of 100sqm. The submitted layout plan proposes garden sizes in accordance with this guidance for plots 1-8. However, for plots 9 there is an under provision by approximately 25sqm. Nevertheless, the

garden area proposed for plot 9 is not significantly lower than the guidance and would still provide sufficient private amenity space to accommodate features such as garden shed, washing line and other domestic features and provide for the occupants' day to day needs.

- 6.33 It is important to note that the Inspector in their consideration of the appeal did not raise any concerns in respect of the impact on future occupiers from the development proposed.

### ***Highway Matters***

- 6.34 Policy P1 of the HSA DPD requires the dwellings proposed to be provided with 2.5 spaces per 3-4 bed dwelling as the appeal site is located within Parking Zone 2. Therefore, for the development proposed 23 (rounded up) vehicle parking spaces are required to be provided in accordance with Policy P1.
- 6.35 As highlighted above, the previous application was refused due to a lack of parking provision contrary to Policy P1 of the HSA DPD. At the appeal for that application the appellant sought to amend that scheme to increase in the number of car parking spaces serving the residential dwellings from 20 to 23. However, the Inspector refused to accept that amendment and the appeal was dismissed due to the lack of parking provision only.
- 6.36 This application includes the amendment to the previous scheme submitted by providing the additional car parking spaces such that 23 parking spaces are proposed, 2 for each dwelling and 5 visitor spaces.
- 6.37 The Highways Officer has reviewed the application and considers the parking provision to be acceptable, as well as the impact on the highway network, accesses proposed and highway safety.
- 6.38 Details regarding construction works, cycle storage and electric vehicle charging points can be adequately secured by planning condition should the application be approved. In addition, provision of the parking spaces proposed, visibility splays and site accesses are also recommended to be secured by planning condition.
- 6.39 Therefore, the proposed development is considered to accord with Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026 and Policy P1 of the Housing Site Allocations DPD 2006-2026 and the National Planning Policy Framework.

### ***Flooding and Drainage***

- 6.40 Policy CS16 of the Core Strategy requires surface water to be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS).
- 6.41 The site is located within Flood Zone 1 (low risk of fluvial flooding). A Flood Risk Assessment and Drainage Strategy report has been submitted which confirms that the site is at low risk from fluvial, ground water and sewage flooding. That assessment proposes permeable paving, soakaways, rain butts and attenuation tanks to be used in the development and discharge would run to an existing surface water sewer.
- 6.42 The LLFA have reviewed the application and raise no objections subject to a condition to secure the precise details of the sustainable drainage systems to be used.
- 6.43 Whilst no response from Thames Water has been received, the applicant has provided copies of correspondence with Thames Water where they confirm there is sufficient foul sewage capacity for the development proposed and raise no objections to the surface

water proposals. It is noted that the Inspector in the appeal did not raise any concerns regarding flooding and drainage and the proposals have not been materially changed from that considered by the Inspector.

6.44 Therefore, the application is considered to accord with Policy CS16 of the Core Strategy subject to the condition proposed in section 8 of the report.

### ***Biodiversity***

6.45 The application was submitted prior to the changes in legislation requiring developments to achieve at least 10% net gain in biodiversity. However, Policy CS17 of the Core Strategy states that, in order to conserve and enhance the environmental capacity of the District, all new development should maximise opportunities to achieve net gains in biodiversity.

6.46 The applicant has provided an Ecological Appraisal, Ecology Appraisal addendum and BNG Metric and Assessment. The development proposed would achieve a net gain in biodiversity of 14% and bat boxes, bird boxes, and bee bricks would be installed together with measures to mitigate the impact on biodiversity. That information has been reviewed by the Council's Ecologist who considers that sufficient information has been provided and they raise no objections subject to conditions to secure:

- A Construction and Environmental Management Plan (CEMP).
- A Landscape and Ecological Management Plan (LEMP).
- Protection of Breeding Birds During Construction.
- A Lighting Design Strategy for light sensitive biodiversity.
- Biodiversity Measures.
- Further Ecological Surveys if development does not commence within 18 months of decision.

6.47 Whilst the previous application was refused due to the lack of sufficient information, the appellant provided the same information that has been submitted for this application during the course of the appeal. The Inspector noted that the landscape strategy would include a new, linear belt of tree and hedge planting between the proposed dwellings and the hotel which would re-establish a meaningful and well-connected area of new vegetation, which is likely to be attractive to birds and small mammals. The Inspector also considered that the development would also include garden land, which is itself of some biodiversity value. The Inspector concluded there would be adequate protection of existing habitats and a measurable net gain in biodiversity could be achieved through the proposed landscape strategy and other ecological enhancements such that the effect on biodiversity would be acceptable and there would be no conflict with Policies CS14 and CS17, subject to the above conditions.

6.48 Therefore, it is considered that the impact on biodiversity from the development proposed in this application is acceptable and accords with Policies CS14 and CS17, subject to the above conditions.

### ***Impact on Trees***

6.49 As previously highlighted, a significant amount of existing vegetation, comprising scrub and shrubs as well as 15 trees, 3 areas of hedgerow and 7 groups of trees are proposed to be removed as a result of the development.

6.50 The submitted landscaping masterplan proposes 77 new trees to be planted as part of the development, 25 within the remaining grounds of the hotel and 52 to the northern and southern boundaries of the area to be developed for housing.



- 6.51 The Tree Officer has reviewed the application and acknowledges the significant removal of trees but considers the proposed tree planting will mitigate the impact of that tree removal. The Tree Officer has requested a condition to secure landscaping details and an arboricultural method statement and tree protection in accordance with the tree protection plan submitted.
- 6.52 It is important to note that the Inspector in their consideration of the appeal did not raise any concerns in respect of the loss of trees from the development proposed.

### ***Sustainable Construction***

- 6.53 Policy CS15 of the Core Strategy requires major development to demonstrate that all of its energy use will be drawn from renewable or zero carbon energy generation on site or in the locality of the development. Whilst the application represents a major application due to the size of the application only as a result of the associated changes to the layout of the hotel site, only 9 dwellings are proposed. An application for 9 dwellings on their own would not normally be considered as a major development and therefore not be required to achieve zero carbon energy generation on site or in the locality of the development. For that reason, the previous application was not refused due to the development not seeking to achieve zero carbon energy generation on site or in the locality of the development and the Inspector did not raise this as an issue at the appeal.
- 6.54 Therefore, in this instance, it is not considered that the proposed development of up to 9 dwellings is required to achieve zero carbon.

### ***Affordable Housing***

- 6.55 In accordance with Policy CS6 of the Core Strategy, on sites where 5-9 dwellings are proposed 20% of those dwellings are to be affordable. This would equate to 2 dwellings, one of which would be Social Rent tenure and the other a First Home.
- 6.56 The applicant has confirmed that they are willing to provide the affordable housing units within the development proposed, comprising 2 no. three bed dwellings in plots 8 and 9. Those affordable houses would be secured by a s106 agreement (planning obligation). Should Members accept officer's recommendation, a s106 agreement will need to be completed to adequately secure the provision of on-site affordable housing.
- 6.57 Subject to the affordable housing being adequately secured by planning obligation, the application is considered to accord with Policy CS6 of the Core Strategy and NPPF in respect of affordable housing provision.

### ***6.58 Planning Obligation (s106 agreement)***

- 6.59 Core Strategy Policy CS5 seeks to ensure the timely delivery of infrastructure made necessary by development. Policy CS6 seeks to secure affordable housing. The Council's adopted Planning Obligations SPD outlines the Council's approach to securing planning obligations for such matters.
- 6.60 As identified in this report, a planning obligation is required to secure affordable housing. This has been assessed against the CIL Regulations and is considered necessary to make the development acceptable in planning terms, is directly related to the development, and fairly and reasonably related in scale and kind to the development.
- 6.61 The recommendation is therefore subject to completion of a S106 Legal Agreement to secure the affordable housing, in order to ensure the development complies with the aforementioned policies.

## **7. Planning Balance and Conclusion**

- 7.1 As set out in this report, the residential development on this site accords with the Core Strategy Spatial Strategy Policies ADPP1 and ADPP2 and Policy CS1 relating to housing development. Therefore, the residential development of the site is not objected to in principle and has to be supported, but it would have first to be assessed against the requirements of the 'most important' policies to understand whether the proposal is in accordance with the development plan as a whole.
- 7.2 Further to the in-principle acceptability of residential development, as set out in this report, the proposed development (subject to conditions and a planning obligation) is in accordance with the whole suite of Core Strategy Policies namely CS4, CS5, CS6, CS13, CS14, CS15, CS16, CS17, and CS19. These policies are up-to-date and should carry full weight.
- 7.3 Therefore, the proposal is considered to be in accordance with the development plan as a whole and it is not a departure from the adopted plan. As such, this application (subject to conditions and a planning obligation) represents sustainable development for the purposes of the NPPF and the application can be approved without delay in accordance with paragraph 11(c) of the NPPF.

### ***Conclusion***

- 7.4 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the application should be determined in accordance with the development plan, unless there are material considerations that indicate otherwise.
- 7.5 There are no material considerations that indicate that the proposal should not be determined in accordance with the Development Plan. The application is considered to adequately address the only reason for the previous appeal being dismissed by the Inspector through the provision of additional parking spaces.
- 7.6 In view of the above this planning application is acceptable and satisfactory and should be granted planning permission subject to conditions and the prior satisfactory completion of a Section 106 Legal Agreement. The proposed resolution includes the ability to refuse the application if the S106 is not completed within a reasonable timeframe.

## **8. Full Recommendation**

- 8.1 PROVIDED THAT a Section 106 Agreement has been completed within 3 months (or such longer period that may be authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee), to delegate to the Development Manager to GRANT PLANNING PERMISSION subject to the conditions listed below (or minor and inconsequential amendments to those conditions authorised by the Development Manager, in consultation with the Chairman or Vice Chairman of the Western Area Planning Committee).
- 8.2 OR, if a Section 106 Agreement is not completed, to delegate to the Development Manager to REFUSE PLANNING PERMISSION for the reasons listed below.

## Conditions

1.	<p><b>Approval of Reserved Matters</b></p> <p>Details of the appearance and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the local planning authority before any development takes place. The development shall be carried out in accordance with the approved details.</p> <p>Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
2.	<p><b>Time Limit for Reserved Matters</b></p> <p>Application(s) for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.</p> <p>Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
3.	<p><b>Commencement of Development (outline)</b></p> <p>The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.</p> <p>Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
4.	<p><b>Approved Plans (for the amended appeal scheme)</b></p> <p>The development hereby permitted shall be carried out in accordance with the following approved plans/documents received on 15 November 2023:</p> <p>Site Location Plan drawing number AP01 Rev P4.  Proposed Housing Site Plan drawing number AP03 Rev P9.  Proposed Housing Site Block Plan, drawing number AP09 Rev P3.  Landscape Masterplan, drawing number 943-MP-01 Rev C.  Landscape Strategy – Vegetation Plan, drawing number 943-ST-01 Rev A.  Proposed Premier Inn Site Plan drawing number AP07 Rev P2.</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
5.	<p><b>Construction Method Statement</b></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"> <li>(a) A site set-up plan during the works;</li> <li>(b) Parking of vehicles of site operatives and visitors;</li> <li>(c) Loading and unloading of plant and materials;</li> <li>(d) Storage of plant and materials used in constructing the development;</li> <li>(e) Measures to control dust, smell, dirt, noise and other effluvia;</li> <li>(f) Measures to control rats and other vermin;</li> <li>(g) Measures to control surface water run-off during construction;</li> <li>(h) The proposed method of piling for foundations (if any);</li> </ul>

	<p>(i) A scheme for recycling/disposing of waste resulting from demolition and construction works;</p> <p>(j) How resultant spoil will be dealt with on site;</p> <p>(k) Hours of construction and demolition work;</p> <p>(l) Hours during the construction and demolition phase when delivery vehicles, or vehicles taking materials, are permitted to enter or leave the site.</p> <p>Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy 2006-2026, and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007). A pre-commencement condition is required because the CMS must be adhered to during all demolition and construction operations.</p>
6.	<p><b>Construction Environmental Management Plan</b></p> <p>No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:</p> <p>(a) Mitigation measures in section 6 of the Ecological Appraisal by Aspect Ecology (October 2021).</p> <p>(b) Risk assessment of potentially damaging construction activities.</p> <p>(c) Identification of “biodiversity protection zones”.</p> <p>(d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).</p> <p>(e) The location and timing of sensitive works to avoid harm to biodiversity features.</p> <p>(f) The times during construction when specialist ecologists need to be present on site to oversee works.</p> <p>(g) Responsible persons and lines of communication.</p> <p>(h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.</p> <p>(i) Use of protective fences, exclusion barriers and warning signs.</p> <p>The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.</p> <p>Reason: To ensure the conservation and enhancement of the biodiversity assets of the site and wider area in accordance with Policy CS17 in the West Berkshire Core Strategy (2006 to 2026) and the National Planning Policy Framework. A pre-commencement condition is required because the CEMP will need to be adhered to throughout construction.</p>
7.	<p><b>Contaminated Land</b></p> <p>No development shall take place until a scheme to deal with contamination at the site has been submitted to and approved in writing by the Local Planning Authority. The above scheme shall:</p> <p>(a) Include an investigation and risk assessment. A report of the findings shall: identify the nature and extent of any contamination on the site (irrespective of its origin); include an assessment of the potential risks to human health, property, and</p>

	<p>the environment; and include an appraisal of remedial options, and proposal of preferred option(s).</p> <p>(b) Include a remediation scheme* which ensures 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. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.</p> <p>(c) Include a monitoring and maintenance scheme* to ensure the long-term effectiveness of the proposed remediation, and the provision of reports on the same that shall be submitted to and approved in writing by the LPA.</p> <p>(d) 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.</p> <p>Thereafter, any approved remediation scheme and/or monitoring and maintenance measures shall be carried out in accordance with the approved details. Two weeks written notice shall be given to the Local Planning Authority prior to the commencement of any remediation scheme.</p> <p>If any previously unidentified land contamination is found during the carrying out of the development, it shall be reported immediately in writing to the Local Planning Authority. Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be submitted and approved in writing by the Local Planning Authority. Thereafter, any remediation measures shall be carried out in accordance with the approved details.</p> <p>The development shall not be first occupied until all 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 Local Planning Authority.</p> <p>Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This condition is applied in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007). A pre-commencement condition is required to ensure that adequate investigation and a suitable remediation and/or monitoring is agreed before it may be implemented throughout the demolition and/or construction phase.</p>
8.	<p><b>Ground Levels and Finished Floor Levels</b></p> <p>No development shall take place until details of existing and proposed ground levels and finished floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.</p> <p>Reason: To ensure a satisfactory relationship between the proposed development and the adjacent land and neighbouring properties. This condition is applied in accordance with the NPPF, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD (June 2006). A pre-commencement condition is required because insufficient information accompanies the application, and the agreed details will affect early construction activities.</p>

**9. Sustainable Drainage**

No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority.

These details shall:

- a) Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the Non-Statutory Technical Standards for SuDS (March 2015), the SuDS Manual C753 (2015) and the WBC SuDS Supplementary Planning Document December 2018 and Flood Risk Assessment submitted as part of the Outline Planning Application;
- b) Include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels. Soakage testing shall be undertaken in accordance with BRE365 methodology and in the location and depth, plus 1 additional metre, of all proposed infiltration devices to confirm appropriate geology for infiltration across the site;
- c) Include detailed run-off calculations based on current rainfall data models, discharge rates (based on equivalent greenfield run-off rates), and infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in100-year storm +40% for climate change, as appropriate. These calculations should demonstrate hydraulic connectivity between surface water drainage features;
- d) Include detailed information on how long-term storage will be managed and discharged from the site at a restricted rate, no greater than 2l/s/ha;
- e) Include separate and clear catchment plans detailing which areas are draining and discharging to which location and, where applicable, which areas have been included within the Greenfield calculations and Long Term Storage calculations;
- f) Include with any design calculations an allowance for an additional 10% increase of paved areas (Urban Creep) over the lifetime of the development;
- g) Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;
- h) Include construction drawings and external levels strategies of the proposed scheme to manage the surface water overland flow route to the north and east of the development site. This should include flood levels, proposed routing and storage, where applicable, alongside Finished Floor Levels of the proposed residential units;
- i) Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil, groundwater, watercourse or drain;
- j) Ensure permeable paved areas are designed and constructed in accordance with manufacturers guidelines if using a proprietary porous paved block system; otherwise ensure any permeable areas are constructed on a permeable sub-base material, such as MoT/DoT Type 3;
- k) Include written confirmation from Thames Water of their acceptance of permeable paving being constructed and installed over a public sewer;
- l) Include written confirmation from Thames Water of their acceptance of the Build Over agreement for the proposed development;
- m) Include a management and maintenance plan showing how the SuDS measures will be maintained and managed after completion for the lifetime of the development. This plan shall incorporate arrangements for adoption by the Council, Water and Sewage Undertaker, Maintenance or Management Company (private company or Trust) or individual property owners, or any other arrangements, including maintenance responsibilities resting with individual property owners, to secure the operation of the sustainable drainage scheme throughout its lifetime. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises;
- n) Include flood water exceedance routes (low flow, overflow and exceedance routes), both on and off site;

	<p>o) Include details of how surface water will be managed and contained within the site during construction works to prevent silt migration and pollution of watercourses, highway drainage and land either on or adjacent to the site.</p> <p>The above sustainable drainage measures shall be implemented in accordance with the approved details before the dwellings hereby permitted are first occupied or in accordance with a timetable to be submitted and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. /The sustainable drainage measures shall be maintained and managed in accordance with the approved details thereafter.</p> <p>Reason: To ensure that surface water will be managed in a sustainable manner; to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity and ensure future maintenance of the surface water drainage system can be, and is carried out in an appropriate and efficient manner. This condition is applied in accordance with the National Planning Policy Framework, Policy CS16 of the West Berkshire Core Strategy (2006-2026), Part 4 of Supplementary Planning Document Quality Design (June 2006) and SuDS Supplementary Planning Document (Dec 2018). A pre-condition is necessary because insufficient detailed information accompanies the application; sustainable drainage measures may require work to be undertaken throughout the construction phase and so it is necessary to approve these details before any development takes place.</p>
10.	<p><b>Landscape and Ecological Management Plan (LEMP)</b></p> <p>No development shall take place until a Landscape and Ecological Management Plan (LEMP) (also referred to as a Habitat or Biodiversity Management Plan) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:</p> <ul style="list-style-type: none"> <li>(a) Description and evaluation of features to be managed.</li> <li>(b) Ecological trends and constraints on site that might influence management.</li> <li>(c) Aims and objectives of management.</li> <li>(d) Appropriate management options for achieving aims and objectives.</li> <li>(e) Prescriptions for management actions.</li> <li>(f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).</li> <li>(g) Details of the body or organization responsible for implementation of the plan.</li> <li>(h) Ongoing monitoring and remedial measures.</li> </ul> <p>The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.</p> <p>The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.</p> <p>The approved plan will be implemented in accordance with the approved details.</p> <p>Reason: This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026 to conserve the biodiversity of the site. A pre-commencement condition is required because details of the LEMP may need to be implemented throughout construction.</p>

11.	<p><b>Arboricultural Method Statement</b></p> <p>No development (including site clearance and any other preparatory works) until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority and shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area.</p> <p>Reason: To ensure the protection of trees identified for retention at the site in accordance with the National Planning Policy Framework and Policies CS14, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026. A pre-commencement condition is necessary because insufficient detailed information accompanies the application; tree protection installation, other measures and works may be required to be undertaken throughout the construction phase and so it is necessary to approve these details before any development takes place.</p>
12.	<p><b>Protection of Breeding Birds During Construction</b></p> <p>No removal of hedgerows, trees or shrubs, or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to the removal of hedgerows, trees or shrubs.</p> <p>Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.</p>
13.	<p><b>Schedule of Materials</b></p> <p>No construction of the dwellings above foundation level shall take place until a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted, has been submitted to and approved in writing by the Local Planning Authority. Samples of materials shall be made available upon request. Thereafter the development shall be carried out in accordance with the approved details.</p> <p>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), Supplementary Planning Document Quality Design (June 2006).</p>
14.	<p><b>Noise</b></p> <p>No dwelling shall be first occupied until mitigation measures to protect its occupants from externally generated noise have been provided in accordance with a scheme of works that has first been submitted to and approved in writing by the Local Planning Authority. The scheme of works shall be informed by an appropriately detailed investigation to address the noise impacts from nearby commercial/industrial activity in The Triangle including the superstore as well as the nearby waste recycling centre and the A339 road.</p>



	<p>Reason: To protect future occupiers of the development from excessive noise levels from nearby commercial/industrial activity in The Triangle including the superstore as well as the nearby waste recycling centre and the A339 road, to ensure a good standard of amenity. The approval of this information is required before occupation because insufficient information has been submitted with the application. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007), and Quality Design SPD.</p>
15.	<p><b>Hard Landscaping</b></p> <p>No dwelling hereby permitted shall be first occupied until the hard landscaping of the site has been completed in accordance with a hard landscaping scheme that has first been submitted to and approved in writing by the Local Planning Authority. The hard landscaping scheme shall include details of any boundary treatments (e.g. walls, fences) and hard surfaced areas (e.g. driveways, paths, patios, decking) to be provided as part of the development.</p> <p>Reason: Landscaping is an integral element of achieving high quality design and insufficient information has been provided with the application. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.</p>
16.	<p><b>Soft Landscaping</b></p> <p>No dwelling hereby permitted shall be first occupied until a detailed soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The soft landscaping scheme shall include detailed plans, planting and retention schedule including species, plant sizes and proposed numbers/densities, an implementation programme providing sufficient specifications to ensure successful cultivation of trees, shrub and grass establishment, and any other supporting information. All soft landscaping works shall be completed in accordance with the approved soft landscaping scheme within the first planting season following completion of building operations / first occupation of a dwelling (whichever occurs first). Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within five years of completion of this completion of the approved soft landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.</p> <p>Reason: Landscaping is an integral element of achieving high quality design and insufficient information has been provided with the application. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.</p>
17.	<p><b>Lighting Design Strategy for Light Sensitive Biodiversity</b></p> <p>No dwelling shall be first occupied until a “lighting design strategy for biodiversity” has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:</p> <p>a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places</p>

	<p>or along important routes used to access key areas of their territory, for example, for foraging; and</p> <p>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.</p> <p>All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.</p> <p>Reason: Bats are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.</p>
18.	<p><b>Biodiversity Measures</b></p> <p>No dwelling shall be first occupied until bat/bird boxes and bee bricks have been installed/constructed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To ensure biodiversity enhancements are incorporated into the development. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.</p>
19.	<p><b>Cycle Parking/Storage</b></p> <p>No dwelling shall be first occupied until cycle parking/storage facilities for that dwelling have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be maintained and kept available for that purpose at all times.</p> <p>Reason: To ensure the provision of cycle parking/storage facilities in order to encourage the use of cycles and reduce reliance on private motor vehicles. This condition is applied in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy 2006-2026, Policy P1 of the Housing Site Allocations DPD 2006-2026, Quality Design SPD, and the Council's Cycle and Motorcycle Advice and Standards for New Development (November 2014).</p>
20.	<p><b>Electric Vehicle Charging Points</b></p> <p>No dwelling shall be first occupied until an electric vehicle charging point for that dwelling has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Thereafter, the charging point shall be maintained, and kept available and operational for electric vehicles at all times.</p> <p>Reason: To secure the provision of charging points to encourage the use of electric vehicles. This condition is applied in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy 2006-2026, and Policy P1 of the Housing Site Allocations DPD 2006-2026.</p>

21.	<p><b>Tree Protection</b></p> <p>All Tree Protective Fencing shall be erected in accordance with the submitted tree protection plan, reference James Blake Associates drawing number JBA 20/009 TPO01 Rev B dated 21 Sept 2023.</p> <p>The protective fencing shall be implemented and retained intact for the duration of the development.</p> <p>Within the fenced area(s), there shall be no excavations, storage or mixing of materials, storage of machinery, parking of vehicles or fires.</p> <p>Reason: Required to safeguard and to enhance the setting within the immediate locality to ensure the protection and retention of existing trees and natural features during the construction phase in accordance with the NPPF and Policies ADPP1, CS14, CS17, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026.</p>
22.	<p><b>Parking</b></p> <p>No dwelling shall be first occupied until vehicle parking and turning space have been completed in accordance with the approved plans (including any surfacing arrangements and marking out). Thereafter the parking and turning spaces shall be kept available for parking and manoeuvring of vehicle at all times.</p> <p>Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is applied in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy 2006-2026, and Policy P1 of the Housing Site Allocations DPD 2006-2026.</p>
23.	<p><b>Visibility splays</b></p> <p>No dwelling shall be first occupied until visibility splays at the access onto Deadmans lane have been provided in accordance with drawing number 2018/4463/003 Rev E provided within the Transport Statement by RGP dated September 2023 (ref: WHIT/18/4463/TS01). Thereafter the visibility splays shall be kept free of all obstructions to visibility above a height of 0.6 metres above carriageway level at all times.</p> <p>Reason: To ensure there is adequate visibility at the access, in the interests of highway safety. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS13 of the West Berkshire Core Strategy 2006-2026.</p>
24.	<p><b>Site Access</b></p> <p>No dwelling shall be first occupied until the vehicular site access to the dwelling from Deadmans Lane has been completed in accordance with the approved details.</p> <p>Reason: The timely completion of the site accesses is necessary to ensure safe and suitable access for all. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS13 of the West Berkshire Core Strategy 2006-2026.</p>
25.	<p><b>Refuse Storage</b></p> <p>No dwelling shall be first occupied until a storage area for refuse and recycling receptacles (and collection areas if necessary) has been provided for that dwelling in</p>

	<p>accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To ensure that there is adequate refuse and recycling storage facilities within the site, to ensure safe and adequate collection in the interests of highway safety and local amenity. 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 the West Berkshire Quality Design SPD (Part 1, Section 2.13).</p>
26.	<p><b>Ecological Surveys</b></p> <p>If the development hereby approved is suspended for more than 18 months from the date of this permission, the approved ecological reports shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to (i) establish if there have been any changes in the presence and/or abundance of protected species and (ii) identify any likely new ecological impacts that might arise from any changes.</p> <p>Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the Local Planning Authority prior to works recommencing. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.</p> <p>Reason: To ensure the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established. This condition is applied in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.</p>

### ***Heads of Terms for Section 106 Agreement***

1.	<p><b>Affordable housing</b></p> <ul style="list-style-type: none"> <li>• On-site provision of 20% affordable housing (2 dwellings)</li> <li>• Tenure: 1 Social Rented dwelling and 1 First Homes dwelling.</li> <li>• All affordable dwellings to be constructed to comply with Part M4(2) of the Building Regulations – ‘accessible and adaptable dwellings’.</li> </ul>
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### ***Refusal Reasons***

1.	<p><b>Affordable housing (S106)</b></p> <p>The application fails to provide an appropriate planning obligation to deliver affordable housing. The district has a high affordable housing need and an affordability ratio above the national average. Compliance with Core Strategy Policy C6 through the provision of affordable housing is therefore necessary to make the development acceptable. In the absence of an appropriate planning obligation, the proposal is contrary to Policy CS6 of the West Berkshire Core Strategy 2006-2026, the Planning</p>
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	Obligations Supplementary Planning Document, the National Planning Policy Framework, as well as the relevant policies of the emerging Local Plan Review.
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### **Informatives**

1.	<p><b>Proactive</b></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><b>CIL Liability</b></p> <p>The development hereby approved results in a requirement to make payments to the Council as part of the Community Infrastructure Levy (CIL) procedure. A Liability Notice setting out further details, and including the amount of CIL payable will be sent out separately from this Decision Notice. You are advised to read the Liability Notice and ensure that a Commencement Notice is submitted to the authority prior to the commencement of the development. Failure to submit the Commencement Notice will result in the loss of any exemptions claimed, and the loss of any right to pay by instalments, and additional costs to you in the form of surcharges. For further details see the website at <a href="http://www.westberks.gov.uk/cil">www.westberks.gov.uk/cil</a></p>
3.	<p><b>Compliance with conditions</b></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>
4.	<p><b>Pre-conditions</b></p> <p>Conditions nos. 5-11 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>
5.	<p><b>Compliance with approved drawings</b></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>
6.	<p><b>Building Regulations</b></p>

	<p>Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. You are advised to consult with Building Control Solutions (the Local Authority Building Control service for West Berkshire provided in partnership by Wokingham Borough Council) before works commence. Call: 0118 974 6239, email: <a href="mailto:building.control@wokingham.gov.uk">building.control@wokingham.gov.uk</a>, or visit: <a href="http://www.wokingham.gov.uk/building-control">www.wokingham.gov.uk/building-control</a></p>
7.	<p><b>Health and safety</b></p> <p>The responsibility and any liability for the safe development of the site rests with the developer and/or landowner. Although the Council has used its best endeavours to determine this application on the basis of the information available to it, this does not mean that the land or adjoining land will necessarily remain free from instability. The Council's consideration has been only on the basis of the development proposed, and these considerations may be different in relation to any other development. The question of stability of adjacent land has been a material planning consideration, and the resolution of this issue for the purposes of granting planning permission does not necessarily imply that the requirements of any other controlling authority would be satisfied and, in particular, the granting of planning permission does not give any warranty for support or stability or against damage of adjoining or nearby properties.</p>
8.	<p><b>Control of Pollution Act 1974</b></p> <p>Your attention is drawn to Section 61 of the Control of Pollution Act 1974, which allows developers and their building contractors to apply for 'prior consent' for noise generating activities during building works. This proactive approach involves assessment of construction working methods to be used and prediction of likely construction noise levels at sensitive positions, with the aim of managing the generation of construction noise using the 'best practicable means' available. You are advised to engage an acoustic consultant experienced in construction noise and vibration assessment and prediction to complete your S.61 application. Relevant information can be found here S.61 Control of Pollution Act 1974</p>
9.	<p><b>Construction noise</b></p> <p>The attention of the applicant is drawn to the requirements of Section 60 of the Control of Pollution Act 1974 in respect of the minimisation of noise on construction and demolition sites. Application under Section 61 of the Act, for prior consent to the works, can be made to West Berkshire Environmental Health. For more information: email <a href="mailto:ehadvice@westberks.gov.uk">ehadvice@westberks.gov.uk</a>, call 01635 519192, or visit <a href="http://info.westberks.gov.uk/environmentalhealth">http://info.westberks.gov.uk/environmentalhealth</a>.</p>
10.	<p><b>Damage to footways, cycleways and verges</b></p> <p>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.</p>
11.	<p><b>Damage to the carriageway</b></p> <p>The attention of the applicant is drawn to the Highways Act, 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.</p>
12.	<p><b>Legal Agreements</b></p>

	<p>This Decision Notice must be read in conjunction with the terms of a Legal Agreement of the (date to be inserted once agreement is completed). You are advised to ensure that you have all the necessary documents before development starts on site.</p>
13.	<p><b>Biodiversity Net Gain</b></p> <p>BIODIVERSITY NET GAIN</p> <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:</p> <p>(a) a Biodiversity Gain Plan has been submitted to the planning authority, and</p> <p>(b) the planning authority has approved the plan.</p> <p>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.</p> <p>There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.</p> <p>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.</p> <p><b>EXEMPTIONS AND TRANSITIONAL ARRANGEMENTS</b></p> <p>The following are the statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.</p> <ol style="list-style-type: none"> <li>1. The application for planning permission was made before 12 February 2024.</li> <li>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.</li> <li>3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and       <ol style="list-style-type: none"> <li>(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or</li> <li>(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.</li> </ol> </li> <li>4. The permission which has been granted is for development which is exempt being:       <ol style="list-style-type: none"> <li>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:           <ol style="list-style-type: none"> <li>i) the application for planning permission was made before 2 April 2024;</li> <li>ii) planning permission is granted which has effect before 2 April 2024; or</li> <li>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).</li> </ol> </li> </ol> </li> </ol>

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-built 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).

# Appeal Decision for Application 21/00636/OUTMAJ



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## Appeal Decision

Site visit made on 5 September 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> October 2024

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**Appeal Ref: APP/W0340/W/23/3334321**

**Premier Inn, Pinchington Lane, Newbury RG19 8XS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Whitbread Group PLC against the decision of West Berkshire District Council.
  - The application Ref is 21/00636/OUTMAJ.
  - The development proposed is described as 'outline planning application for up to 9 no. dwellings and all associated works. Matters to be considered Access, Layout and Landscaping'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is in outline. As originally submitted, it included details of access only, but the application was amended to include details of access, layout and landscaping. I have considered the proposal on that basis and have used the amended description in the banner heading above. As the appearance and scale of the proposed development are reserved for future consideration, I have treated drawings which illustrate proposed external elevations as being indicative.
3. A Unilateral Undertaking (UU) dated 29 May 2024, under section 106 of the Town and Country Planning Act 1990, was provided with the appeal. This makes provision for affordable housing and the Council has confirmed that this addresses the matters raised in the third reason for refusal.
4. Amended plans were provided with the appeal, increasing the number of parking spaces for the proposed dwellings from 20 to 23. Both parties confirm that the same amendments are included in a revised planning application<sup>1</sup>, which is undetermined at the time of writing.
5. The Procedural Guide: Planning appeals - England makes clear that the appeal process should not be used to evolve a scheme and that any amended plans provided at appeal stage will be considered against the principles in *Holborn Studios Ltd v The Council of the London Borough of Hackney (2018)*. This requires consideration of whether any substantive changes are proposed and whether any procedural unfairness would arise.

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<sup>1</sup> West Berkshire Council application reference 23/02643/OUTMAJ

6. Amongst several smaller changes, the amended layout would alter the siting of the proposed dwelling on plot 1 and would introduce a double width access to serve plots 1 and 2. While this affects only one part of the site, it would be a substantive change within this particular stretch of Deadmans Lane and would change the relationship with the existing properties opposite.
7. I cannot be confident that interested parties, including those living opposite, have noted the amended parking layout. Although I have been provided with copies of representations responding to the revised application up to the date of the Council's Statement of Case, I cannot tell whether any further representations were received after that point. In any case, full details of the revised application are not before me. As such, it is not appropriate for me to rely on representations submitted on that separate application when considering this appeal.
8. Therefore, having applied the principles in the Holborn judgement, I have not taken into account the amended parking layout for 23 spaces, since it would amount to a substantive change to the proposal and there is a risk of procedural unfairness arising.
9. An updated Biodiversity Net Gain (BNG) Assessment was also provided with the appeal. This does not alter the proposed layout or landscaping to any substantive degree. The Council and interested parties have had the opportunity to comment and I have taken it into account. I have also taken into account the appellant's Ecology Addendum dated May 2024. Although this was received at a late stage, the Council has been given the opportunity to respond, with input from its Ecologist. The Addendum responds to a specific point in the Council's Ecology Statement of Case, which is unlikely to influence views already articulated by interested parties regarding the effect on biodiversity. As such, I am satisfied that no procedural unfairness would result to any party as a result of my having considered this additional evidence.

### **Main Issues**

10. The main issues are:
  - the effect of the proposal on highway safety and the flow of traffic, having regard to the proposed provision for off-street parking,
  - the effect on biodiversity.

### **Reasons**

#### *Highways and Parking*

11. The appeal site contains a hotel in landscaped grounds, with car parking in several bays around the edge. Vehicular access is through the adjacent retail park and currently only pedestrian access is available to Deadmans Lane. The proposed dwellings would occupy the existing parking bays along the southern boundary, with replacement hotel parking to be provided in front of the building. They would be accessed from Deadmans Lane; some sharing a central access and private drive and the others having individual driveways.
12. Parking standards for new residential development are set out in Policy P1 of the Housing Site Allocations DPD<sup>2</sup>. Based on the requirements in that policy,

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<sup>2</sup> West Berkshire Council Housing Site Allocations Development Plan Document (2006-2026), adopted 2017

the parties agree that 23 spaces are required. The appellant's transport evidence is based on provision of 23 spaces, as was the Highways Authority's response, which raised no highway safety objection. However, amendments prior to the Council's decision reduced the number of spaces to 20, which would not comply with Policy P1.

13. Although Policy P1 allows for parking that does not accord with the standards in exceptional circumstances, no such circumstances have been proposed. Indeed, the appellant has taken steps to address the shortfall through a revised planning application. However, for reasons given above, that is not the layout upon which I have reached this decision.
14. Deadmans Lane is a generally narrow, quiet road which provides access to several residential streets to the south of the appeal site. It does not accommodate two-way traffic along its full length, although there are some wider sections and passing places. The appellant's Transport Statement reports no records of accidents and traffic speeds appeared relatively low at the time of my site visit. However, there were regular vehicle movements entering and leaving the nearby streets and the houses directly fronting Deadmans Lane. Interested parties also report that the lane is used as a pedestrian route, including by children walking to school.
15. There are no apparent parking restrictions along most of Deadmans Lane, but nor were any vehicles parked on the lane at the time of my site visit. Given the limited width, the introduction of parked cars would be likely to obstruct the flow of traffic and could limit visibility for drivers entering and exiting the proposed development or negotiating the narrow sections of lane while seeking to pass oncoming traffic safely. As such, overspill parking resulting from the shortfall against parking standards would have an unacceptable effect on highway safety, as well as holding up the flow of traffic to and from nearby dwellings.
16. For the above reasons, I conclude that the proposal would be unacceptably harmful to highway safety and the flow of traffic, having regard to the proposed provision for off-street parking. It conflicts with relevant requirements in Policy P1, as summarised above. It also conflicts with Policy CS13 of the Core Strategy<sup>3</sup>, which amongst other things requires that development improves and promotes opportunities for safe travel, and with paragraph 115 of the Framework which indicates that development may be refused where it would have an unacceptable impact on highway safety.

#### *Biodiversity*

17. Policies CS14 and CS17 of the Core Strategy require amongst other things that development should provide, conserve and enhance biodiversity and create linkages between green spaces and wildlife corridors. Policy CS17 also includes a requirement that all new development should maximise opportunities to achieve net gains in biodiversity.
18. The hotel grounds include maintained lawns with decorative planting, various parcels of amenity grassland and tree and shrub belts around the perimeter. The proposed dwellings would reduce and fragment the belt of trees and vegetation along Deadmans Lane. This would undermine the benefit from that

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<sup>3</sup> West Berkshire Council Core Strategy (2006-2026), adopted 2012

particular habitat on the site, which is overlooked and valued by nearby residents. However, the landscape strategy would include a new, linear belt of tree and hedge planting between the proposed dwellings and the hotel. While this would not provide similar screening along Deadmans Lane, it would re-establish a meaningful and well-connected area of new vegetation, which is likely to be attractive to birds and small mammals. The development would also include garden land, which is itself of some biodiversity value.

19. Relevant protected species surveys are included in the 2021 Ecological Appraisal<sup>4</sup> (EA). Appropriate mitigation measures are proposed, including measures to avoid disturbance of nesting birds and maintain connected habitat for foraging/commuting bats. Although the EA is now over three years old, it was updated in 2024. This update is not before me, but both parties confirm that it shows there have been no substantive changes in habitats or protected species present on the site. Furthermore, at the time of my site visit, those features likely to be of biodiversity value appeared substantially as described in the 2021 EA. The May 2024 Ecology Addendum addresses the omission of the hotel car park area from the original surveys and the updated Biodiversity Net Gain Assessment addresses previous flaws in methodology and concludes that a measurable biodiversity net gain would be achieved.
20. Following consideration of the appellant's ecological evidence in full, the Council has confirmed that the matters raised in the second reason for refusal could be adequately addressed through the imposition of conditions. These would encompass submission, approval and compliance with a Construction and Environmental Management Plan and Landscape and Ecological Management Plan, maintenance of up-to-date ecological evidence to inform the detailed proposals, measures to protect nesting birds, appropriate forms of external lighting and installation of bird/bat boxes and bee bricks.
21. Subject to the above conditions, based on the evidence before me, I am satisfied that there would be adequate protection of existing habitats and that a measurable net gain in biodiversity could be achieved through the proposed landscape strategy and other ecological enhancements. I therefore conclude that the effect on biodiversity would be acceptable and there would be no conflict with Policies CS14 and CS17, as summarised above. Nor would the proposal conflict with relevant paragraphs in the Framework, including the requirement in paragraph 180 that development should minimise impacts on and provide net gains for biodiversity.

### **Other Matters**

22. On sites providing 5 to 9 dwellings, Policy CS6 of the Core Strategy requires affordable housing provision at a rate of 20% and the Planning Obligations SPD<sup>5</sup> elaborates on how that requirement should be implemented. While the Framework says that affordable housing provision should not be sought for residential developments that are not major developments, the proposal is defined as a major development based on the appeal site area, so the requirements in Policy CS6 are applicable.
23. The UU makes provision for two affordable dwellings, one being available for social rent and the other a First Home. This is broadly in line with tenure

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<sup>4</sup> Aspect Ecology Ltd Ecological Appraisal October 2021

<sup>5</sup> West Berkshire Council Planning Obligations Supplementary Planning Document 2014

requirements in Policy CS6 and the SPD, given subsequent national changes to the definition of affordable housing. The Council has confirmed that the UU is acceptable and would be sufficient to secure the appropriate provision of affordable housing, and I agree. I am furthermore satisfied that the UU meets the relevant tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. That being the case, the proposal would contribute to the supply of affordable housing, as well as to the supply of housing in more general terms.

24. The appeal site is in an urban area which is the focus for the majority of development, as set out in Core Strategy Area Delivery Plan Policy 1. There are services and facilities within walking distance, as well as access to public transport. Family sized housing is proposed, which is supported in Core Strategy Policy CS4, outside town centres. While both parties indicate that there is no shortfall in the Council's required housing land supply, the proposal would contribute to the windfall component of projected supply and would make more efficient use of a previously developed site.
25. Land to the south of the appeal site is within the Sandford Priory Grade II Registered Park, the significance of which relates to its design by Lancelot 'Capability' Brown. However, the adjacent part of the Registered Park has been developed with modern housing. The listed buildings at Sandford Priory are some distance beyond that housing, and consequently have no visual or functional relationship with the appeal site. No harm to heritage assets was alleged by the Council. Based on the evidence before me I concur that the setting and significance of relevant heritage assets would be preserved.
26. The Council has not alleged any harm to the character and appearance of the area and relevant requirements for energy efficiency, electric vehicle charging, cycle storage, drainage and noise insulation could be addressed through conditions. However, these are neutral factors which weigh neither for nor against the proposal.
27. The benefits arising from the delivery of additional housing, including affordable housing, would be at the expense of safe conditions on the highway, affecting future residents of the proposed dwellings and those living nearby. Furthermore, similar benefits could potentially be achieved through an alternative layout, addressing this outstanding matter. Against that background, while I recognise the benefits of the proposal, as summarised above, they do not outweigh the harm arising from the shortfall in parking.

### **Conclusion**

28. The proposed development would conflict with the development plan. No other material considerations indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

*Jane Smith*

INSPECTOR