

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(3)	24/00925/FUL Newbury	16/05/2024 ¹	Construction of single storey restaurant building using shipping containers. Renovation and fit out of existing brick storage barn to form new barn and seating area. External landscaping to form pub garden/seating area. Cross Keys, 8 London Road, Newbury, RG14 1JX Mr James Callery

¹ Extension of time agreed with applicant until: 18 December 2024

The application can be viewed on the Council's website at the following link:

<https://publicaccess.westberks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SCWKIGRD0PL00>

Recommendation Summary: Approval

Ward Member(s): Councillor Antony Amirtharaj
Councillor Martha Vickers

Reason for Committee Determination: 10+ objections

Committee Site Visit: 12th December 2024

Contact Officer Details

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1. Introduction

- 1.1 The purpose of this report is for the Committee to consider the proposed development against the policies of the development plan and the relevant material considerations, and to make a decision as to whether to approve or refuse the application.
- 1.2 This application seeks planning permission for the construction of a single storey restaurant building using shipping containers. Renovation and fit out of existing brick storage barn to form new barn and seating area. External landscaping, including closed board fencing to form pub garden/seating area.
- 1.3 The application site is a public house located on the corner of London Road and Pelican Lane within the settlement boundary of Newbury. The application site is located within the conservation area and within the town centre commercial area.

2. Planning History

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

Application	Proposal	Decision
76/04323/ADD	Erection of two 4 sheet wall panels	Refused
77/07460/ADD	Internal alterations and erection of new urinal	Approved
84/21482/LBC	Part of garage to be converted for use as stores and wc existing store to be converted to wc external alterations	Approved
84/22344/ADD	Part of garage to be converted for use as stores and wc existing store to be converted to wc external alterations	Approved
90/36632/ADD	Erection of office use building with associated parking	Approved
90/36677/CON	Partial demolition of existing house	Approved
99/55715/LBC	Internal alteration of a Public House which involves the part removal of some internal walls and a staircase which will be re-sited to serve the first floor letting rooms. This work will improve the customer area and help from a supervision point of view. Demolition of existing outbuildings	Approved
01/00733/FUL	Proposed alterations and toilet extension	Approved
07/02164/FUL	Proposed new fire escape door and external metal staircase	Approved
22/00998/FUL	Construction of external seating area with canopy over and landscaping to pub garden at side and rear. Alteration private pub car park entrance	Approved

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. A site notice was displayed on 31 May 2024, with a deadline for representations of 21 June 2024. A public notice was displayed in the Newbury Weekly News on 23 May 2024; with a deadline for representations of 6 June 2024.
- 3.3 **Local Financial Considerations:** Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. No local financial considerations are material to this application.
- 3.4 **Community Infrastructure Levy (CIL):** CIL is a levy charged on most new development within an authority area. The money is used to pay for new infrastructure supporting the development of an area by funding the provision, replacement, operation or maintenance of infrastructure. This can include roads and transport facilities, schools and education facilities, flood defences, medical facilities, open spaces, and sports and recreational areas. CIL will be charged on residential (C3 and C4) and retail (A1 - A5) development at a rate per square metre (based on Gross Internal Area) on new development of more than 100 square metres of net floorspace (including extensions) or when a new dwelling is created (even if it is less than 100 square metres).
- 3.5 CIL liability will be formally confirmed by the CIL Charging Authority under separate cover following the grant of any permission. More information is available at www.westberks.gov.uk/cil.
- 3.6 **Public Sector Equality Duty (PSED):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The Council must have due regard to the need to achieve the following objectives:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.7 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic

- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- 3.8 The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have regard to and remove or minimise disadvantage. In considering the merits of this planning application, due regard has been given to these objectives.
- 3.9 There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.
- 3.10 **Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, including Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial) and Article 8 (Right to respect for private and family life and home) of the Act itself. The consideration of the application in accordance with the Council procedures will ensure that views of all those interested are taken into account. All comments from interested parties have been considered and reported in summary in this report, with full text available via the Council’s website.
- 3.11 Any interference with property rights is in the public interest and in accordance with the Town and Country Planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.
- 3.12 **Listed building setting:** Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 16(2) has the same requirement for proposals for listed building consent. No listed buildings will be impacted by the proposed development.
- 3.13 **Conservation areas:** Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

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.

Newbury Town Council:	No objection
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	Comment: consideration taken to minimise the impact on the neighbouring offices.
WBC Highways:	<p>This site is within Newbury Town Centre. It is therefore sustainably located within the District. Whilst there is a proposed increase in capacity, there is good access to alternative modes of travel. For those staff and patrons that do travel of car there are public car parks that could be utilised when required.</p> <p>Conditional approval – giving this location there must be no deliveries at peak times on the highway network.</p>
WBC Drainage:	The drainage engineer requested drainage details to be provided. They also asked for infiltration test results to ensure that a soakaway solution is feasible in this location, or that an alternative means of discharge is available.
Environmental Health:	<p>No Environmental Health Objection:</p> <p>The applicant has confirmed the timings for the operation of the proposal area and kitchen, of 11pm (closing time) and 9pm (shut down time) for the kitchen and extraction. I therefore have no noise objection to those operating hours which are acceptable for this location. I would suggest that these timings are conditioned.</p> <p>The principle of a commercial kitchen in this area is acceptable and the information submitted in relation to noise and odour for the kitchen is less detailed than I would typically expect. However, I have input the fan sound pressure level into a sound distance calculator and the sound levels at the nearest dwelling are predicted be relatively low and unlikely to result in adverse impact. With regards odour management, the information submitted is minimal, it shows that there will be grease baffles and fans to extract odour/fumes/smoke/vapour. Whilst the discharge height and orientation proposed is not generally considered ideal for optimal dispersal as the extract will be directed towards the car park (not a sensitive receptor) it is a reasonable distance from sensitive receptors, so significant adverse impacts should be unlikely. I therefore accept the proposals in the absence of a full odour and noise assessment and do not object. In the unlikely event nuisance complaints were to arise from the proposed extraction due to noise or odour, Environmental Health also have powers to investigate and take action to resolve the nuisance.</p>

Public representations

- 4.2 Representations have been received from 10 contributors, 1 of which is impartial, and 9 of which object to the proposal. A petition has been received with 18 signatures objecting to the application.
- 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 of smells from kitchen and woodburning flues.
- General noise
- Concern re potential noise and antisocial behaviour of customers in the evenings and in summer when windows are open
- Concerned height of containers will be higher than existing boundary wall – loss of light into ground floor chiropractor’s clinic
- Not clear how the ground is to be levelled as the car park is not flat.
- Concern regarding building up public house within residential area.
- Concern for safety.
- Impact during construction period.
- Pelican Lane/London Road already busy enough.
- Loss of parking

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 ADPP2, CS11, CS14, and CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policies OVS5, OVS6, SHOP1, ECON5 and TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

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

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- WBC Quality Design SPD (2006)
- Planning Obligations SPD (2015)

6. Appraisal

6.1 The main issues for consideration in this application are:

- The principle of development
- The impact on the character and appearance of the area
- Impacts on residential area in terms of noise and smell
- Impact on offices in terms of overshadowing
- Highways matters
- Flood risk and drainage

Principle of development

6.2 Policy ADPP1 of the Core Strategy states that development in West Berkshire will follow the existing settlement pattern. The application site is within the defined settlement boundary of Newbury.

6.3 Commercial development within town centre locations is permitted and encouraged by Policy CS11 which states "The vitality and viability of the District's town, district and local centres will be protected and enhanced. The existing network of town, district,

local, and village centres will form the focal point for uses, services, and facilities serving the surrounding population. Any scheme will be of an appropriate scale and character to reflect and respond to the role and function of the centre, and should promote the individuality of the centre, responding to any distinct features.”

- 6.4 The proposal seeks to create a restaurant and provide improved outdoor seating area which will support the existing public house by providing outdoor seating area, which is considered to be supported by policy CS11 in that it seeks to support local businesses to aid their long term survival.
- 6.5 Therefore, development in this location is acceptable in principle subject to the proposal otherwise meeting the criteria of ADPP1, and detailed policies on matters such as design, the impact on the character of the area, on highways and on the amenity of adjacent properties.

Character and Appearance

- 6.6 Policy CS14 states that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area and makes a positive contribution to the quality of life in West Berkshire. It further states that design and layout must be informed by the wider context, having regard not just to the immediate area, but to the wider locality. Development should contribute positively to local distinctiveness and sense of place. Development proposals would be expected to make efficient use of land whilst respecting the density, character and landscape of the surrounding area (amongst other considerations).
- 6.7 Policy CS19 of the Core Strategy seeks the conservation and, where appropriate, enhancement of heritage assets and their settings including Listed Buildings and Conservation Areas amongst others. The NPPF indicates where a proposal leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.8 The overall site area measures approximately 800 square metres and is situated on the junction between London Road to the south and Pelican Lane to the east. The main building adjoins the building to the west. Currently the rear of the site is a private car park accessed via London Road. The site is bounded by a 1.2 metre high modern wrought iron fence to the east and north, interrupted only with a 2 metre high brick wall. The public house and outbuildings occupy the south-west of the site. The site has a gentle fall from north to south of approximately 0.6 metres.
- 6.9 The proposal seeks for the construction of a single storey rear extension to the existing barn to create new restaurant and small, open kitchen, constructed using re-purposed shipping containers linked together. At the eastern side of the containers, the original steel container doors will be replaced by powder coated aluminium framed bi-folding, fully glazed doors opening out on the new garden area. A canopy roof/pergola will be added to this elevation. The roof of the containers proposes to have a new 'green' Sedum roof, with automatic watering system.
- 6.10 The existing brick storage barn outbuilding will be renovated and converted to a new bar area with a new structural opening formed in the north wall to link the space to the new restaurant area. The existing defective barn doors will be replaced by timber framed glazed screen with a pair of fully glazed doors to provide access.
- 6.11 The garden will be landscaped with sustainable self-draining hard finishes, such as resin bonded gravel, stone paving and areas of planting, including two new planters using steel from the re-used container doors and perimeter borders, all enclosed by a new timber closed boarded 2 metre high perimeter fence to create a private, sheltered

environment. A timber pergola is proposed to be erected in the centre to allow the addition of training plants and as support for lighting.

- 6.12 The north-west corner of the site will be screened off and used as a service area containing refuse and recycling bins.
- 6.13 The proposal includes both hard and soft landscaping which will enhance the character and appearance of the area by visually softening the area by the mixture of materials and the amount of planting included which also provides a small ecological benefit.
- 6.14 Overall, the proposal would not have a significant impact on the character and appearance of the local area and seeks to enhance this currently unattractive area to the side of this unlisted, but historic, building; therefore, complies with policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026).

Neighbouring Amenity

- 6.15 Securing a good standard of amenity for all existing and future occupants of land and buildings is an expectation of the National Planning Policy Framework.
- 6.16 West Berkshire Core Strategy Core Strategy Policy CS14 states that new development must make a positive contribution to the quality of life in West Berkshire.
- 6.17 The application site is an existing public house with outdoor space; whilst the proposal seeks to enhance this outdoor space concern has been raised about the impact on neighbouring amenity. The application site and the wider site have an established use, and no objection has been raised by the Environmental Health Officer due to the current noise management plan in place, the details of the proposed wood burner flue and kitchen extract flue being acceptable, and the powers available under the licensing application. Therefore, is not considered that the proposal would lead to a significant increased impact on neighbouring amenity.
- 6.18 Overall, the proposed works are considered to be in accordance with Policy CS14 of the West Berkshire Core Strategy and Policies OVS.5 and OVS.6 of the West Berkshire Local Plan (Saved Policies 2007).

Highways

- 6.19 Policies CS13 of the Core Strategy and TRANS.1 of the Saved Policies of the Local Plan relate to access, parking and turning and highways impacts of development. The NPPF indicates development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.20 The proposal involves removal of the car parking provision. As the site is situated within a sustainable location within the district, the highways officer raised no objections subject to pre-development condition being added to any permission given.
- 6.21 Given the scale of the proposed works and the existing use there is not considered to be a significant impact on highway safety and the proposal is considered to be in accordance with the NPPF, Policy CS13 of the Core Strategy and TRANS.1 of the Saved Policies of the Local Plan.

Flooding and Drainage

- 6.22 The application site is situated within Flood Zone 1 which has the lowest flood risk. The drainage engineer requested further drainage information. Given the low flood risk of the area, and the existing hard surfacing of the application site, it is considered that requesting further details is not necessary in planning terms. Instead, it is recommended that an informative is applied to recommend sustainable drainage measures.

7. Full Recommendation

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

Conditions

1.	<p>Commencement of development The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p>Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).</p>
2.	<p>Approved plans The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:</p> <p>2204/PL01 (Location Plan) received on 2 May 2024 2204/PL02 (Block Plan) received on 2 May 2024 2204/PL06 (Site Plan) received on 2 May 2024 2204/PL07 Rev. B (East Elevation) received on 16 May 2024 2204/PL08 (Elevations) received on 16 May 2024 2204/PL09 (Roof Plan) received on 16 May 2024</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
3.	<p>Schedule of materials (prior approval) No development 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), and Supplementary Planning Document Quality Design (June 2006). A pre-commencement condition is required because the approved materials will be used throughout construction.</p>
4.	<p>Construction method statement 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</p>

	<p>undertaken in accordance with the approved CMS. The CMS shall include measures for:</p> <ul style="list-style-type: none"> (a) Parking of vehicles of site operatives and visitors (b) Loading and unloading of plant and materials (c) Storage of plant and materials used in constructing the development (d) Erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing (e) Wheel washing facilities (f) Measures to control emission of dust during construction (g) A scheme for recycling/disposing of waste resulting from demolition and construction works (h) A site set-up plan during the works (i) No deliveries between 0800-0900 and 1700-1800 <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 CS 5 and CS13 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>
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Informatives

1.	<p>Proactive statement</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 secured and accepted what is considered to be a development which improves the economic, social and environmental conditions of the area.</p>
2.	<p>CIL</p> <p>The development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and thus 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, if applicable, will be sent out separately from this Decision Notice. It is your responsibility to contact the CIL Team as soon as possible to confirm whether the development is CIL liable. If subsequently confirmed as CIL liable, 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 a Commencement Notice will affect any exemptions claimed, including 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 www.westberks.gov.uk/cil</p>
3.	<p>Drainage</p> <p>We would hope that consideration would be given to the use of SuDS features that provide a control of rainfall at source. This would include features such as water butts and raised planters where a small volume of runoff would be contained for use in local irrigation of garden plants.</p>

	<p>For more information on SuDS features, reference should be made to Policy CS16 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Sustainable Drainage Systems (2018). Reference should also be made to the Environment Agency Standing Advice. Further information regarding SuDS can be found in C753 The SuDS Manual which is available for free online.</p> <p>We do not advise infiltration devices in areas where Clay is the underlying geology. To establish the underlying bedrock geology, reference should be made to the British Geological Survey (BGS) website. Where soakaways are to be used please carry out an infiltration test prior to construction and always ensure there is an alternative to discharge surface water runoff from the site (i.e. connection to a watercourse, or surface water sewer) when conceptualising the proposal.</p>
4.	<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 (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>EXEMPTIONS AND TRANSITIONAL ARRANGEMENTS</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"> 1. The application for planning permission was made before 12 February 2024. 2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies. 3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and <ol style="list-style-type: none"> (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024. 4. The permission which has been granted is for development which is exempt being: <ol style="list-style-type: none"> 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"> i) the application for planning permission was made before 2 April 2024;

ii) planning permission is granted which has effect before 2 April 2024; or
iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:
i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

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

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

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

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

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

APPLICABLE EXEMPTION

The exemption that is considered to apply to this application is: 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).

IRREPLACEABLE HABITAT

	<p>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.</p> <p>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.</p> <p>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.</p> <p>THE EFFECT OF SECTION 73D OF THE TOWN AND COUNTRY PLANNING ACT 1990</p> <p>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.</p> <p>Those circumstances are that the conditions subject to which the section 73 permission is granted:</p> <ul style="list-style-type: none"> 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. <p>PHASED DEVELOPMENT</p> <p>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.</p> <p>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).</p>
5.	<p>Damage to footways, cycleways and verges</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>
6.	<p>Damage to the carriageway</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>