

Item No.	Application No. and Parish	Statutory Date	Target	Proposal, Location, Applicant
(2)	24/02784/PIP Boxford Parish Council	07.02.2025 ¹		Application for Permission in Principle for residential development for a new detached dwelling Laburnum Cottages, Westbrook, Newbury RG20 8DN Gareth Johns (Pro-vision)
¹ No extension of time was agreed by the applicant.				

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=SOZSDNRD09N00>

Recommendation Summary: To DELEGATE to the Development Manager to GRANT PERMISSION IN PRINCIPLE subject to:

- (i) the completion of a Habitats Regulations Assessment (HRA) which demonstrates a neutral impact on current nutrient levels in the catchment; and
- (ii) a Section 106 agreement to secure the necessary offsite phosphate mitigation measures.

Ward Member(s): Councillor Benneyworth
Councillor Denise Gaines
Councillor Tony Vickers

Reason for Committee Determination: The Council has received in excess of 10 objections and the officer recommendation is to approve.

Committee Site Visit: 17 April 2025

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 'permission in principle' for a residential development for 1no. new detached dwellinghouse at land north of Laburnum Cottages.
- 1.3 The site comprises modified grassland with a tall native hedgerow along the western boundary of the site. There are 4 medium trees. The site is classified as agricultural land. It is located directly adjacent and to the north of the small ribbon settlement of Westbrook. There are detached and semi-detached dwellings of varying sizes on all sides.
- 1.4 The indicative layout indicates that 1no. detached dwelling would be located at centre front of the site with a detached garage to the north west. Except for the access, the site would be surrounded by hedgerow.
- 1.5 The Town and Country Planning (Permission in Principle) Order 2017 (as amended) provides for an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second (technical details consent) stage is when the detailed development proposals are assessed. This proposal relates to the first stage (permission in principle stage) for a residential development of 1no. dwelling.
- 1.6 The scope of permission in principle is limited to the consideration of location, land use and amount of development. Issues beyond these 'in principle' matters (such as dwelling design, access arrangement and drainage etc.) should not be considered at the permission in principle stage. Such matters would be considered at the technical details consent ("Details") stage should this permission in principle application be approved.
- 1.7 In terms of the location, use and amount of development that is considered as part of this application, the following details are relevant:
 - Location: Land north of Laburnum Cottages, Westbrook.
 - Land use: C3 dwellinghouse.
 - Amount: 1no. dwelling house.

2. Planning History

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

Application	Proposal	Decision / Date
No recorded planning history.		

- 2.2 The site is outside and directly north of the settlement boundary of Boxford. As part of the Local Plan Review (LPR) process the site was promoted for inclusion within the settlement boundary by the landowner. The site was therefore considered as part of the Settlement Boundary Review which was undertaken as part of the evidence base for the LPR. As part of this process the Council wanted to explore the potential for including the site as a single plot or other similar small-scale development opportunity which would provide infill or rounding off opportunity that is physically, functionally and visually related to the existing built-up area. The Parish Council was consulted on this basis and objected to the proposed settlement boundary amendment.
- 2.3 In response to this objection, the Council reviewed the proposal. It was acknowledged that the character of Westbrook becomes more rural at the site's location and the site itself is an open field used as a paddock. The properties beyond the site are much more of a loose knit nature than those to the south of the site and relate more to the wider rural landscape than the main settled area. Whilst an extension to the boundary to the east of the highway would present a good rounding off opportunity, on balance and considering the strong objections received from the local community, the settlement boundary was not revised to include this site.

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 16.01.2025 on the site's street boundary hedge with a deadline for representations of 06.02.2025.
- 3.3 **Local Financial Considerations:** Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. The table below identified the relevant local financial considerations for this proposal.

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

Job Creation	No	No	
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- 3.4 **Community Infrastructure Levy (CIL):** Community Infrastructure Levy (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. CIL will be used to fund roads and other transport facilities, schools and other educational facilities, flood defences, medical facilities, open spaces, and sports and recreational areas. Subject to the application of any applicable exemptions, CIL will be charged on residential (Use Classes C3 and C4) and retail (former Use Classes A1 – A5) development at a rate per square metre (based on Gross Internal Area) on new development of more than 100 square metres of gross internal area (including extensions) or when a new dwelling is created (even if it is less than 100 square metres). CIL liability, and the application of any exemptions, will be formally confirmed by the CIL Charging Authority under separate cover following any grant of planning permission. More information is available at <https://www.westberks.gov.uk/community-infrastructure-levy>
- 3.5 **New Homes Bonus (NHB):** New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. NHB money will be material to the planning application when it is reinvested in the local areas in which the developments generating the money are to be located, or when it is used for specific projects or infrastructure items which are likely to affect the operation or impacts of those developments. NHB is not considered to be a relevant material consideration in this instance, but can be noted for information.
- 3.6 **Public Sector Equality Duty (PSED):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The Council must have due regard to the need to achieve the following objectives:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.7 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.8 The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. Whilst there is no absolute requirement to fully remove any disadvantage, the

duty is to have regard to and remove or minimise disadvantage. In considering the merits of this planning application, due regard has been given to these objectives.

- 3.9 There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.
- 3.10 **Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, including Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial) and Article 8 (Right to respect for private and family life and home) of the Act itself. The consideration of the application in accordance with the Council procedures will ensure that views of all those interested are taken into account. All comments from interested parties have been considered and reported in summary in this report, with full text available via the Council's website.
- 3.11 It is acknowledged that there are certain properties where there may be some impact (this can be mitigated by conditions where relevant). 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 one dwelling.
- 3.12 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.
- 3.13 **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. There are several listed buildings south of the site. These include "Manor Cottage" (Grade II) approx. 20m from the site, "Stream Cottage" (Grade II) approx. 45m from the site, and "Elm Cottage" (Grade II) approx. 57m from the site.
- 3.14 **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. The site is located within the northern edge of the Boxford and Westbrook Conservation Area.
- 3.15 **National Landscapes (AONB):** Section 85 of the Countryside and Rights of Way (CROW) Act 2000 (as amended) provides a general duty for public bodies: "Any relevant authority exercising or performing any functions in relation to, or so as to effect, land in an area of outstanding natural beauty in England must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty)." AONBs have been rebranded to be known as National Landscapes, although their legal AONB status continues.

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.

Boxford Parish Council:	<ul style="list-style-type: none"> - The site is outside the settlement boundary. This boundary was subject to a review and public consultation in 2022. The site was excluded from any changes to the settlement boundary. A house should therefore not be built in this location. Approving this application would cast public doubt on the planning system and consultation. - The context of the site has been subject to significant building concentration over the last 20 years. This has resulted in massing that should not be extended along the road. - The site establishes the sporadic building and interspaced free spaces which are typical of the transition from the village of Boxford out towards the NWD National Landscape. - The site is within a Nutrient Sensitive Zone (NNZ). Development would affect the Lambourn River Special Area of Conservation and should not be granted permission in principle without mitigation. The number of bedrooms has not been specified therefore no meaningful mitigation can be given and cannot be monitored. - The applicant has calculated nutrient 'liability' based on 2.4 occupants, suggesting a 2-3 bedroom property. The indicative plan shows a building larger than this. - Traffic congestion would be exacerbated through the introduction of a formal drive and associated vehicle movements. - The applicant's suggestion that the recent change by the Ministry of Housing, Communities and Local Government (MHCLG) to national housebuilding targets has the effect of removing power from the Local Authority to control development is misleading. The MHCLG guidance does not support these claims. - The addition of 1 dwelling would not have a meaningful contribution in meeting the new central government housing targets.
Ecology response)	(1st No objection.

<p>Ecology response) (2nd</p>	<p>Biodiversity Net Gain (BNG) may be required. The Preliminary Ecological Appraisal (PEA) indicates apple trees on site. The site has not been designated by MAGIC maps as an orchard priority habitat, however, Ecology request clarification as this would influence the BNG calculator that would be used for the proposal of BNG and is therefore a critical factor in decision-making.</p> <p>The site is within the Nutrient Neutrality zone (NNZ) and would be subject to providing mitigation for its impact. Mitigation proposals are to take agricultural land out of production to enable this development and are deemed appropriate in principle. Other mitigation solutions may be sufficient such as the use of a package treatment plant.</p> <p>Suggested conditions relate to (1) compliance with existing detailed biodiversity method statements, strategies, plans and schemes, (2) a Construction Environmental Management Plan, (3) lighting design strategy for light sensitive biodiversity, and (4) ecological enhancements.</p> <p>We will need to conduct an HRA on this site despite being a PIP and then consult Natural England, which would require 21 days.</p>
<p>Environmental Health</p>	<p>No objection.</p>
<p>Drainage</p>	<p>No comment. Advice for applicant provided relating to sustainable drainage systems.</p>
<p>Highways</p>	<p>No objection subject to conditions.</p>
<p>Archaeology</p>	<p>The greenfield site is within the Conservation Area and historic settlement of Westbrook and may also have archaeological potential due to known finds in the vicinity. Some assessment of this heritage interest would be required prior to any determination, in line with the 2024 NPPF paragraph 207. There are several historic cottages and houses nearby and the impact of any new building should be considered, along with its design.</p>
<p>Conservation Officer</p>	<p>No objection.</p> <p>No conservation area appraisal exists for this conservation area.</p> <p>The village exhibits a very clear linear form with housing on either side of the main road. This sort of ribbon development is typical of smaller settlements evolving along well-travelled routes.</p> <p>Dwellings within the village are set slightly back from the road with small gardens to the front and larger ones to the rear, but the front elevations are prominent and generally fairly visible. Trees, hedges and grass verges are all important features as are the dwellings which are generally good examples of vernacular architecture.</p>

	<p>The site in question is an open undeveloped plot that is sandwiched between other plots containing dwellings – Laburnum Cottage to the south, Knapps farm to the north, Coppers Farmhouse to the west and the rear of The Malting to the east which is just visible from the road. Further north there is another small cluster of dwellings which therefore also lie outside the conservation area and settlement boundary but can be seen to form a continuation of the village. Therefore, the development of the site in principle would not harm the significance of the conservation area, subject to the details of the application.</p>
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Public representations

4.2 Representations have been received from 22 contributors. All object to this 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:

- Westbrook is a narrow lane frequented by pedestrians and regularly congested.
- Additional traffic and on-street parking would be problematic.
- There is a large rock in front of the house opposite which creates strain on the highway.
- The adjacent cottages already park in front of the site which cause obstruction.
- No parking of contractor or delivery vehicles should be permitted.
- Development on the site should be connected to the mains sewer.
- Over the years, this narrow no-through road has been infilled with new houses. This has had a negative visual impact.
- Access is already difficult for emergency vehicles. This will be worsened.
- Visual amenity in Westbrook and within the context of the AONB is fundamental.
- The site is within a conservation area.
- The site is located outside the settlement boundary which should not be expanded in this location and would have an urbanising effect.
- The site contains a green field and is agricultural.
- The proposal would alter the essentially rural character of the village and historic open views of fields and water meadows.
- This site has never been included in a Local Plan. In-fill options within the settlement boundary should be prioritised.
- Building in this location would likely cause overlooking and overshadowing and obstruct rural views.
- The field was previously used for village allotments and the site is subject to restrictive covenants.
- Nutrient neutrality is a concern as phosphate levels are already too high.
- The existing sewerage infrastructure is overloaded.
- The settlement boundary differentiates Westbrook and the rural, farming landscape.
- There is already inappropriate development on the opposite side of Westbrook.
- This is not an urban area and the rural character of the area should be retained.
- The proposal does not comply with the Boxford Parish Plan. Action S1 "Housing development" which states that appropriate small-scale infill development is generally supported. This site is outside the settlement boundary and is therefore not 'infill' development.
- If the application is approved, then there is no point in having building and environmental policies.

- The planning statement states that development presents a 'rounding off' opportunity which is disingenuous as any development on the boundary of a settlement area could be so described and settlement boundaries are designed to stop development creep.
- The settlement boundary should not be changed to cater for individual speculative developments.
- The application amounts to an attack on the ability of West Berkshire Council to meet its overall housing delivery needs. It does not identify any need for development of this site in this location.
- The NWD National Landscape needs to be protected.
- The site is close to water meadows, a SSSI and a delegate ecosystem.
- One additional dwelling is not going to impact on housing targets.
- The applicant does not live in Westbrook and the development is not for their benefit.
- Another inappropriate planning application by the applicant has already been approved. As a result, there would be an increase of 2 dwellings in Westbrook.
- The site is classified as agricultural land.
- The details associated with the PIP application are irrelevant as they would be likely changed in a 'Details' application.
- There would be traffic congestion during construction.
- There is a potential impact on flood risk as the site is close to the river which has previously flooded in this area. A proper assessment should be undertaken prior approval.

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, ADPP5, CS1, CS4, CS13, CS14, CS16, CS17, CS18 and CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policies P1 and C1 of the Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD).
- Policies OVS5, OVS6 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)
- North Wessex Downs AONB Management Plan 2019-24
- WBC Quality Design SPD (2006)
- WBC Sustainable Drainage Systems SPD (2018)
- Planning Obligations SPD (2015)
- The Conservation of Habitats and Species Regulations (2017).
- Boxford Parish Plan
- Emerging Local Plan (limited weight)

6. Appraisal

‘Permission in Principle’ Scope

- 6.1 In accordance with Paragraph 012 of the Planning Practice Guidance, the scope of this ‘permission in principle’ application is focussed on whether the proposed location, land use and amount of development is acceptable. It therefore needs to be determined whether the proposed land use (C3 dwelling house) and the amount of development (1 dwelling house) is appropriate in this location. All other details such as the proposed dwellings’ design, access arrangement, drainage etc. are not relevant to this application.

“Location” and “Use”

- 6.2 The question of whether the location for the proposed use is acceptable is linked from a policy perspective. These aspects are therefore considered together.
- 6.3 Policy CS1 states that new homes will be located in accordance with the Spatial Strategy and Area Delivery Plan Policies. Policies ADPP1 and ADPP5 of the Core Strategy and Policies C1 and C3 of the Housing Site Allocations (HSA) DPD are relevant.
- 6.4 For the purposes of the West Berkshire Core Strategy, the site is located outside the settlement boundary of Boxford as defined under Policy ADPP1 and is therefore within the countryside where only appropriate limited development is permitted.
- 6.5 Policy ADPP5 states that housing in the North Wessex Downs AONB (NWD National Landscape) will have appropriate and sustainable growth that conserves and enhances its special landscape qualities. Development will conserve and enhance the local distinctiveness, sense of place and setting of the NWD National Landscape whilst preserving the strong sense of remoteness, tranquillity and dark night skies. Development will respond positively to the local context. Furthermore, development will respect and respond to the historic environment of the NWD National Landscape.
- 6.6 Policy C1 of the Housing Site Allocations (HSA) DPD gives a presumption against new residential development outside of the settlement boundaries. In settlements in the countryside with no defined settlement boundary, limited infill development may be considered where:
- i. It is within a closely knit cluster of 10 or more existing dwellings adjacent to, or fronting an existing highway; and
 - ii. The scale of the development consists of infilling a small under-developed plot commensurate to the scale and character of existing dwellings within an otherwise built-up frontage; and
 - iii. It does not extend the existing frontage; and
 - iv. The plot size and spacing between dwellings is similar to adjacent properties and respects the rural character and street scene of the locality.
- 6.7 Policy C3 of the HSA DPD states that the design of new housing must have regard to the impact individually and collectively on the landscape character of the area and its sensitivity to change. This policy, which speaks mostly to the design of the dwelling rather than the location, use and amount of development, would be used to assess any “Details” application should this application be approved.
- 6.8 As the site is located outside of a defined settlement boundary, the proposed location of the residential development is unacceptable in terms of Policy ADPP1.

- 6.9 In terms of the exceptions within Policy C1, these only apply in settlements in the countryside with no defined settlement boundary. As the site is located adjacent to Boxford's defined settlement boundary, these exceptions do not apply.
- 6.10 In terms of Policy ADPP5, and the proposal's impact on the NDL, the site is of a sufficient size to accommodate a single dwelling whilst retaining an open and spacious setting. Furthermore, the proposal would be read in relation to the existing ribbon development that runs through Westbrook. It is therefore considered that the proposal would have only a limited impact on the NDL.
- 6.11 The site is located within a collection of dwellings within Westbrook, which forms part of the village of Boxford. The site is within the countryside, and there is a small Heritage Centre next to the church, a restaurant 'The Boxford' and a bus service. However, for most services and amenities, residents would need to travel to Newbury to the south east, which is approx. 3.3 miles (approx. 7mins drive) to the edge of the Newbury settlement boundary via Lambourn Road. On account of the site's proximity to the edge of a settlement boundary, and the bus links to Newbury, the site is considered to be within a sustainable location.
- 6.12 According to Natural England's Agricultural Land Classification (ALC)(England), the quality of the site as farmland is Grade 4. As such, this land is not considered as "best and most versatile agricultural land" in terms of the NPPF. The loss of this agricultural land in this location to accommodate 1no. dwelling house is acceptable.
- 6.13 In summary, while the proposal would only have a limited impact on the NDL, it would be unacceptable in terms of Policy ADPP1, and does not meet the criteria of Policy C1.

"Amount"

- 6.14 The site is of a sufficient size to accommodate a single dwelling whilst retaining an open and spacious setting.

Collective impact of proposed location, use and amount of development

- 6.15 The Conservation Area contributes the historic qualities of the NWD National Landscape. As such, it should be ensured that there is no negative impact on the Conservation Area or the surrounding area in general.
- 6.16 No Conservation Area Appraisal exists for the Westbrook Conservation Area, however, it has been determined by the Conservation Officer that the village exhibits a very clear linear form with dwellings on either side of the highway. This sort of ribbon development is typical of smaller settlements that evolve along well-travelled routes. Dwellings within the village are set slightly back from the highway with small gardens to the front and larger gardens to the rear. Front elevations feature prominently. Trees, hedges and grass verges are all important features. The dwellings are generally good examples of vernacular architecture.
- 6.17 The site is an undeveloped plot. Although outside the conservation area and settlement boundary, there is a small cluster of dwellings immediately to the north of the site which forms a continuation of the village. The development of the site in principle would not harm the significance of the conservation area, subject to acceptable design proposal submitted at 'Details' stage.
- 6.18 It has been argued that the vacant greenfield site informs the rural character of the conservation area. However, there is a high hedge that spans the site's frontage which obstructs the view of the site from most directions. The indicative plan demonstrates

proposed hedging. It is acknowledged that this proposal could change in a 'Details' application, however, it has been demonstrated that maintaining a large section of the hedge is possible. In maintaining the hedge, the presence of 1no. dwelling in this location would be partially mitigated. The impact of the proposal on the character of the area would be reassessed during the 'Details' stage when a final dwelling design and site layout is submitted.

- 6.19 The impact on the Conservation Area and the and the NWD National Landscape would not be significant or detrimental and the proposal complies with Policy CS19 and the NPPF.

Other matters

- 6.20 As mentioned, the scope of this application is limited to location, use and amount of development. All other material considerations must be considered at 'Details' stage. However, the following comments are made:

Highways:

- 6.21 Highways-related considerations (including access, trip generation etc.) are not part of the scope of this 'permission in principle' application. Such would be considered at 'Details' stage should this application be approved.

Nutrient Neutrality:

- 6.22 The site is within the River Lambourn Special Area of Conservation (SAC) which is in an unfavourable condition due to excess phosphates. In accordance with the Habitats Regulations, nutrient neutrality requires that housing developments should not add more 'nutrient pollution' to the water catchment.
- 6.23 A Nutrient Assessment and Budget has been submitted which indicates that the applicant has significant wider landholdings where there is scope for mitigation by taking agricultural land out of production to enable this development. The Council's Ecological Officer has reviewed the proposal and confirmed that they were satisfied in principle with the proposed mitigation. The proposal is therefore recommended for approval subject to a planning agreement to secure the offsite mitigation.
- 6.24 It is important to note that although the PPG indicates that planning obligations cannot be secured at the PIP stage. A recent appeal costs decision (APP/A1910/W/22/3303737) highlighted the fact that PIP must not be granted for development which is habitats development unless the local planning authority is satisfied, after taking account of mitigation measures that the development will not adversely affect the integrity of the protected site. Therefore, the Inspector found that the council had not behaved unreasonably in requiring a planning obligation to secure habitat mitigation measures. Another appeal in Gloucester in 2023 (APP/C1625/W/23/3329704) allowed Permission in Principle for 'between 2 and 4 custom build houses' within in a SAC subject to a legal agreement. In this appeal the inspector found that whilst the PPG states that it is not possible for conditions to be attached to a grant of permission in principle and that planning obligations cannot be secured at this stage, "...there is no legal reason why an obligation cannot be entered into at any time, which can secured by way of a S106 Agreement".
- 6.25 In addition to the above it is now understood that before any consent can be granted, a Habitats Regulations Assessment (HRA) must be conducted by the competent authority (in this case the Local Authority) and Natural England must be given 21 days to comment on the findings.

- 6.26 This is set out in the PPG which states that permission in principle must not be granted for development which is 'habitats development'. Habitats development means "*any development that is likely to have a significant effect on a qualifying European site or a European offshore marine site, referred to as habitats sites in the National Planning Policy Framework (either alone or in combination with other plans or projects); is not directly connected with or necessary to the management of the site, and; the competent authority has not given consent, permission, or other authorisation in accordance with regulation 63 of the Conservation of Habitats and Species Regulations 2017....*".
- 6.27 The PPG goes on to states that "*If the local planning authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affects the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle.*" (Paragraph: 005 Reference ID: 58-005-20190315).
- 6.28 To prevent unnecessary delays, it is therefore recommended that Members DELEGATE authority to the Development Manager to GRANT PERMISSION IN PRINCIPLE, subject to the completion of a Habitats Regulations Assessment (HRA) that confirms no adverse impact on current nutrient levels in the catchment (allowing for the 21 day consultation with Natural England); and the completion of a Section 106 agreement to secure the required off-site phosphate mitigation measures.

Biodiversity Net Gain:

- 6.29 The Government's Guidance on Biodiversity Net Gain states that the grant of permission in principle is not within the scope of biodiversity net gain, but would form part of a subsequent 'Details' application should this 'permission in principle' application be approved.

Trees

- 6.30 There are no trees in or adjacent to the site that are protected by tree preservation orders (TPO) and as such, there are no protected habitats that would be affected by the amount of development proposed. Should it be deemed that the existing trees are worthy of protection however, the site is large enough to accommodate the proposed amount of development without impacting on any of the existing trees, as per the indicative plan.

Amenity

The impact on neighbouring amenity is an important consideration. As design matters are not within the scope of this application, there is limited consideration on amenity as any overlooking, overshadowing or overbearing impact of the dwelling would be considered at 'Details' stage. However, it can be noted that the proposed residential use and associated activity would be similar to the dwellings surrounding it.

Flooding and drainage

- 6.31 Flooding and drainage matters would be dealt with at 'Details' stage. It is worth noting however that the site is not within Flood Zones 2 or 3.

Land covenants:

- 6.32 An objector has stated that the site was previously used for village allotments and the site is subject to restrictive covenants. This is a civil matter and not a material planning consideration.

Construction noise, associated parking and congestion

- 6.33 Any noise and associated parking and congestion during construction would be temporary in nature and can be managed with appropriate conditions if necessary.

Conditions

- 6.34 The PPG makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, type, and amount of development.
- 6.35 Where permission in principle is granted by application, such as this, the default duration of that permission is three years, and there is no justification to vary this.

7. Planning Balance and Conclusion

- 7.1 This application is proposing a new dwelling in the countryside outside of any settlement boundaries. The site is not previously developed land as defined by the NPPF. It does not constitute a form of development which is permitted by policy C1.
- 7.2 The Council is unable to demonstrate a five-year supply of deliverable housing sites following the publication of the NPPF (December 2024), which has significantly increased the minimum local housing need figure. The Council can currently demonstrate only a 2.6 years' supply of deliverable housing sites, using a five-year housing land supply from 2024/25 to 2028/29 against a five-year housing land supply requirement, plus a 5% buffer. As a result, the WBC Core Strategy is regarded as out-of-date in terms of the NPPF and the presumption in favour of sustainable development as outlined in paragraph 11 of the NPPF (i.e. 'tilted balance') is engaged, unless the provisions in footnote 7 apply.
- 7.3 For planning decisions, the presumption in favour of sustainable developments means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including due to lack of 5 year housing supply), granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 7.4 With relevance to this application, National Landscapes are listed in footnote 7 of the NPPF and therefore any harmful impact could disengage the 'tilted balance'. It has been deemed that the impact on the National Landscape would be limited. However, the proposal nonetheless would introduce built form to a previously undeveloped site, introducing further built form into the area which could erode the rural character of the area. However, the harm from this built form is considered to be isolated and the proposal would be read in the context of the exiting linear development in Westbrook.

Furthermore, mitigation can be secured by way of appropriate design, scale, materials, and landscaping. This issue attains only moderate weight given the limited harm in the case officer's view.

- 7.5 In the context of paragraph 11 of the NPPF and the tilted balance, the limited harm identified is not considered to provide a strong reason for refusing the proposal.
- 7.6 The addition of 1no dwelling would contribute to the overall housing supply which is in shortage in the area. While the addition of a single dwelling house would not have a significant impact on the housing supply, collectively, small developments such as that proposed would have a positive impact. There would be social and economic benefits associated with the provision of housing. However, given the small scale of the development, these benefits carry moderate weight in the planning balance.
- 7.7 It is considered by officers that, taken together, the planning benefits of the proposal insofar as the location, use and amount of development is concerned outweighs any disbenefits. This conclusion is reached in the context of the NPPF's presumption in favour of sustainable development. It is not considered that NPPF policies provide a strong reason for refusing the development (as per point i. in paragraph 11d), and that any adverse impacts of the development would significantly and demonstrably outweigh the benefits (as per point ii. In paragraph 11d).
- 7.8 Overall, and in light of the tilted balance, it is considered that the development plan and material considerations are such that permission in principle should be granted. As such, the application is recommended for approval subject to the completion of a Habitats Regulations Assessment (HRA) that confirms no adverse impact on current nutrient levels in the catchment; and the completion of a Section 106 agreement to secure the required off-site phosphate mitigation measures.
- 7.9 Full Recommendation
- 7.10 To DELEGATE to the Development Manager to GRANT PERMISSION IN PRINCIPLE subject to:
- (i) the completion of a Habitats Regulations Assessment (HRA) which demonstrates a neutral impact on current nutrient levels in the catchment; and
 - (ii) the completion of a Section 106 Agreement within 3 months of the committee resolution (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)
- 7.11 OR, if a Section 106 Agreement is not completed, to delegate to the Development Manager to REFUSE PERMISSION IN PRINCIPLE for the reasons listed below.

Informatives

1	3 years This permission in principle is granted by application, the default duration of this permission is 3 years from the date of this consent.
2	Positive Decision making 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 which improves the economic, social and environmental conditions of the area.
3	<p>CIL Liable</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>

Heads of Terms for Section 106 Agreement

1.	<p>Securing Nutrient Neutrality Mitigation</p> <p>The s.106 agreement will need to include the following heads of terms:</p> <ul style="list-style-type: none"> - On the grant of TDC (<i>or prior to occupation</i>), to cease the agricultural use of an agreed amount of land within their ownership and not to undertake or permit or procure within the Agreed Site any farming; agriculture; viniculture; horticulture; cultivation (other than the cultivation of trees agreed by the Council for the Agreed Site); ploughing; digging; grazing by any animals; or use of any fertilisers for a period of 80 years. - Prior to the occupation of the dwelling to agree with the Council a schedule of monitoring and management of the Agreed Site to ensure proper management and maintenance of the Agreed Site to the Council's reasonable satisfaction. Should the monitoring reports demonstrate that the mitigation land is not being managed or maintained in accordance with the agreed S106, the report must set out the steps the appellant is taking to remedy this and the timescales. - Inclusion of a mechanism within the S106 which would allow the Council to approve or request amendments to these reports. - For a total continual period of 80 years from the establishment of the Agreed Site to properly manage and maintain the Agreed Site in accordance with the agreed monitoring and management arrangements. - A contribution towards monitoring
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Refusal Reasons

1.	<p>Impact on Nutrient Neutrality – Lack of S106</p> <p>The application is for development inside the catchment of the River Lambourn Special Area of Conservation ("SAC"), which Natural England advises is in an</p>
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	<p>unfavourable condition due to an exceeded nutrient threshold. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017, the proposed development, either alone or in combination with other plans or projects, is likely to have a significant effect on the River Lambourn SAC.</p> <p>The application fails to provide an appropriate planning obligation to secure Nutrient Neutrality Mitigation to mitigate the developments impact without which the proposal would be contrary to the NPPF, Policy CS17 of the West Berkshire Core Strategy (2006-2026), and the Planning Obligations SPD.</p>
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