

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	25/00062/FUL Theale	4 <sup>th</sup> April 2025 <sup>1</sup>	<p>Proposed change of use from offices to ground floor commercial use (Use Class Sui Generis (Hot-Food Takeaway), plus first and second floor residential use comprising 3x 1-bed studios and 1x 2-bed flat. External alterations, plus access, parking and landscaping.</p> <p>Crown House, 1A High Street, Theale, Reading, RG7 5AH</p> <p>TA Fisher &amp; Sons Ltd</p>
<sup>1</sup> Extension of time agreed with applicant until 14 <sup>th</sup> May 2025			

The application can be viewed on the Council's website at the following link:  
<https://publicaccess.westberks.gov.uk/onlineapplications/applicationDetails.do?activeTab=documents&keyVal=SQ4HECRD0NK00>

**Recommendation Summary:** To delegate to the Development Manager to GRANT PLANNING PERMISSION subject to conditions set out in Section 8.1

**Ward Member(s):** Councillor Alan Macro

**Reason for Committee Determination:** Call-in and 10+ objections

**Committee Site Visit:** 30<sup>th</sup> 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 planning permission for the change of use from offices to ground floor commercial use (Use Class Sui Generis (Hot-Food Takeaway), plus first and second floor residential use comprising 3x 1-bed studios and 1x 2-bed flat. External alterations, plus access, parking and landscaping.
- 1.3 Crown House lies within the settlement boundary of Theale, Theale High Street / Blossom Lane Conservation Area and the policy designated Theale Town Centre Commercial Area. The site is accessed for pedestrians at the front joining from High Street to the south, and by vehicle via the courtyard at the rear joining from Crown Lane from the west.

## 2. Planning History

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

Application	Proposal	Decision / Date
88/31457/ADD	Linked detached office building on two floors with rear car park.	Approved / 27/03/1990

## 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 6<sup>th</sup> March, with a deadline for representations of 27<sup>th</sup> March. A public notice was displayed in the Reading Chronicle on 27<sup>th</sup> February; with a deadline for representations of 13<sup>th</sup> March. Notification letters were sent to 21 adjoining occupiers.
- 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):** 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 Public Sector Equality Duty (PSED):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The Council must have due regard to the need to achieve the following objectives:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**3.6** Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

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

**3.7** The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have regard to and remove or minimise disadvantage. In considering the merits of this planning application, due regard has been given to these objectives.

**3.8** There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

**3.9 Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, including Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial) and Article 8 (Right to respect for private and family life and home) of the Act itself. The consideration of the application in accordance with the Council procedures will ensure that views of all those interested are taken into account. All comments from interested parties have been considered and reported in summary in this report, with full text available via the Council's website. No interference with Human Rights has been identified.

- 3.10 **Listed Buildings and Conservation areas:** Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a general duty as respects listed buildings in exercise of planning functions, whereby special regard must be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Officers have therefore had due regard to the site's location within the Theale High Street / Blossom Lane Conservation Area, and reached a conclusion that the significant of all designated heritage assets would be preserved.

## 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>Theale Parish Council:</b>	<p>TPC object to the application for the following reasons:</p> <ol style="list-style-type: none"> <li>1. As a takeaway there is no parking out the front available, it encourages stopping and blocking the road and could be a safety risk as it is at a pedestrian crossing. Where would delivery drivers/pick-up park? We already experience problems with this at Berkshire Kebabs and Co-op. Do we need another hot food takeaway in the village?</li> <li>2. Do we need more flats on the High Street? The impact on the residents with regards to odour and harmful residential amenity.</li> <li>3. The signage aesthetics is not in keeping with the building and the historic High Street.</li> </ol>
<b>Local Highway Authority:</b>	No objection subject to conditions, request informatives
<b>Conservation Officer:</b>	No objection
<b>Environmental Health:</b>	No objection subject to conditions
<b>Lead Local Flood Authority:</b>	No objection
<b>Tree Officer:</b>	No objection subject to condition
<b>Ecology Officer:</b>	No objection subject to condition

## ***Public representations***

- 4.2 Representations have been received from 10 contributors, all of whom 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:
- There are already enough takeaways in the village.
  - The village does not need more flats or houses.
  - Concerns relating to traffic on Crown Lane.
  - Increases chance of air pollution, noise, litter and anti-social behaviour.
  - Façade of building no longer in keeping with area.
  - The submitted Sound Assessment is inadequate.
  - Insufficient information has been provided in regards to mechanical plant.
  - Late night operating hours could give rise to noise concerns for neighbours.
  - Proposal would detract from the vitality of the centre.
  - Signage is likely to be illuminated which would harm the setting of the listed building.

## **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 (Spatial Strategy), ADPP4 (Eastern Area), CS1 (Delivering New Homes and Retaining the Housing Stock), CS9 (Location and Type of Business Development), CS13 (Transport), CS14 (Design Principles), CS16 (Flooding), CS17 (Biodiversity and Geodiversity), CS18 (Green Infrastructure) and CS19 (Historic Environment and Landscape Character) of the West Berkshire Core Strategy 2006-2026 (WBCS).
  - Policies C1 (Location of New Housing in the Countryside) and P1 (Residential Parking for New Development) of the Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD).
  - Policies OVS5 (Environmental Nuisance and Pollution Control), OVS6 (Noise Pollution), HSG13 (Residential Use of Space above Shops and Offices), ECON5 (Town Centre Commercial Areas), SHOP1 (Non Retail uses in Primary Shopping Frontage), SHOP3 (Retail Areas and Retail Warehousing) and TRANS1 (Meeting the Transport Needs of New Development) of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).
- 5.2 The following material considerations are relevant to the consideration of this application:
- National Planning Policy Framework (NPPF)
  - Planning Practice Guidance (PPG)
  - WBC Quality Design SPD (2006)

## 6. Appraisal

### *Principle of development*

- 6.1 To implement the Spatial Strategy, a delivery strategy is set out which divides the District into four main geographical areas and sets out a vision and an Area Delivery Plan Policy for each. These reflect the distinct characteristics of the different parts of West Berkshire, using the District's settlement hierarchy as the focus for development within these areas:
- Newbury and Thatcham, with separate delivery plan policies for Newbury and Thatcham.
  - The Eastern Area, which includes the Eastern Urban Area (Tilehurst, Calcot and Purley on Thames) and the Rural Service Centre of Theale.
  - The North Wessex Downs National Landscape which includes the Rural Service Centres of Hungerford, Lambourn and Pangbourne.
  - The East Kennet Valley, including the Rural Service Centres of Burghfield Common and Mortimer.
- 6.2 The application site is located within the settlement boundary of Theale. Policy ADPP1 of the West Berkshire Core Strategy identifies Theale as a rural service centre, where appropriate development can provide an opportunity to strengthen the role in meeting the requirements of the surrounding communities. Policy ADPP4 provides the spatial strategy for the Eastern Area, which advises that Theale is to remain a vibrant village which maintains a distinct identity and sense of community.

### Principle of new residential development

- 6.3 Policy CS1 of the West Berkshire Core Strategy states that new homes will be located in accordance with the Spatial Strategy and Area Delivery Plan Policies. New homes will primarily be located on:
- Suitable previously developed land within settlement boundaries.
  - Other suitable land within settlement boundaries.
  - Strategic sites and broad locations identified on the Core Strategy Key Diagram.
  - Land allocated for residential development in subsequent Development Plan Documents.
- 6.4 The site complies with criterion 1 in this regard; 'suitable previously developed land within settlement boundaries.' Policy C1 of the Housing Site Allocations DPD gives a list of locations that are broadly considered acceptable for new housing development. There is a presumption in favour of development and redevelopment within the settlement boundary of Theale.
- 6.5 Saved Policy HSG.13 of the West Berkshire District Local Plan states that the Council will permit proposals for the residential use of the upper floors of appropriate premises in town centres.
- 6.6 As a result, it is considered that the principle of residential units above ground floor level is established. Moreover, there is a permitted development right (Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015) that allows for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order. It is therefore considered that there could reasonably be a fallback position that this element could be implemented

following an application for prior approval, without the formal requirement of planning permission being granted.

#### Principle of new hot food takeaway

- 6.7 In regards to the proposed ground floor unit, the site lies within the Theale Town Centre Commercial Area, but outside the primary shopping frontage.
- 6.8 Policy CS11 of the West Berkshire Council Core Strategy seeks for the vitality and viability of district centres (which Theale is defined as) to be protected and enhanced. Hot food takeaway is a 'Main Town Centre Use' according to the NPPF, and therefore in principle appropriate in a high street location.
- 6.9 Officers also note that a number of public representations have referred to a large number of takeaways already being located within Theale High Street, and that another would detract from the overall offering of the High Street, and agree that this could reasonably be a material planning consideration weighing against the proposal.
- 6.10 Consideration has been given to Policy SHOP1 of the West Berkshire District Local Plan Saved Policies, which states that the Council will refuse planning applications for the change of use from (former) class A1 retail uses, to other purposes, within the primary shopping frontage of Theale, where it would result in a concentration of non-retail uses, which would be harmful to the vitality of the shopping centre. However, the site lies outside of the primary shopping frontage, so this policy does not justify a reason for refusal.
- 6.11 Likewise, paragraph 97a of the NPPF states '*Local planning authorities should refuse applications for hot food takeaways and fast food outlets within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre.*' Notwithstanding the fact that there are a number of schools within walking distance, given the site is located within the designated Theale Town Centre commercial area, Officers consider the proposal does not conflict with this paragraph of the NPPF.

#### Loss of offices

- 6.12 The proposal would result in the loss of office floor space. Policy CS9 of the West Berkshire Council Core Strategy states that for proposals for non-town centre uses which seek the loss of office floorspace within defined town and district centres, there will be a need to demonstrate that the proposal maintains the vitality of the existing centre and would not substantially prejudice the overall supply of office floorspace. It is appreciated that there is a shortage of available office space across the district as a whole.
- 6.13 Hot food takeaway is a town centre use and so there is no conflict with Policy CS9 in relation to the ground floor. As set out above, permitted development rights apply to permit residential uses above commercial uses. Moreover, the applicant has supplied a Market Office Availability Assessment that demonstrates there is limited demand for office space in the immediate area. It is estimated that c.1,600,000 square foot of existing office space is available within a 3 mile radius of the application site. Given this, on balance, Officers consider the proposed change of use at ground floor level to a takeaway would not materially harm the vitality of the town centre, and thereby justify the refusal of planning permission on this basis.

## Overall

- 6.14 Overall, it is considered that the principle of this development is acceptable, and compliant with Policies ADPP1, ADPP4, CS1, CS9 and CS11 of the West Berkshire Core Strategy, subject to the proposal meeting the other detailed requirements set out below.

## ***Design, character and appearance***

- 6.15 Forming part of the West Berkshire Core Strategy, Policies CS14 and CS19 relate to design and impacts on the character and appearance of the area. 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. Furthermore, it is expected that the design and layout of any development are relative to the wider context, having regard to not just to the immediate area, but also the wider locality. Development should contribute positively to local distinctiveness and sense of place. Policy CS19 seeks development that ensures the diversity and local distinctiveness of the landscape character of West Berkshire is conserved and enhanced.
- 6.16 The site lies within the Theale Conservation Area. As a result, the Conservation Officer was consulted, commenting that the application has taken onboard concerns raised at pre-application stage, namely:

- The size of the proposed extension was considered too large given the size of the existing building and the visibility of this proposed element from within the conservation area;
- The width of the proposed shop front glazing was too much and caused a visual mis-alignment with the first floor windows;
- The proposed dormers on the front and rear roof slopes;

The present application has taken on board the pre-application feedback and removed all the elements that raised concern. No extension is proposed, the retail glazing has been reduced and is now in-line with the windows on the first floor and the dormers have been replaced with conservation roof lights. As such the scheme will now not result in any harm to the significance of the conservation area or the setting of the neighbouring Grade II listed No.1 High Street.

Overall, the alterations are considered to reflect a traditional retail frontage, which is typical within town centre commercial areas. This area of the High Street comprises of mixed use/office/residential development, and although the impact of the shopfront would alter how the building reads in the street scene in terms of use, frontage is considered to be in keeping with the prevailing character of the area. Any signage required by future occupiers will be required to gain advertisement consent.

- 6.17 It is therefore considered that the proposal complies with the NPPF and Policies CS14 and CS19 of the West Berkshire Core Strategy, with regards to the effect on the design, character and appearance of the area.

## ***Amenity***

- 6.18 The NPPF states that planning should create places with a high standard of amenity for all existing and future users. Policy CS14 states that development should make a positive contribution to the quality of life. As such amenity is an important consideration.
- 6.19 The assessment considered the impact on neighbouring amenity in terms of



- Sunlight / daylight
- Overlooking / privacy
- Overbearing impact
- Noise and disturbance

- 6.20 The proposal has been assessed against the above metrics. Given the nature of the proposal, there are considered to be no material impacts relating to sunlight, overlooking or overbearing.
- 6.21 In regards to noise and disturbance, the Environmental Health Officer (EHO) was consulted, and has raised no objection on these grounds.
- 6.22 In terms of noise, the EHO has suggested conditions relating to noise from air handling plant, and delivery timings that will reduce the impact on the locality. Details will have to be submitted and approved by the local planning authority that are directly linked to noise generating plant before the ground floor unit is able to be brought into use.
- 6.23 In terms of odour, a flue is proposed to discharge above roof level, which is considered best practice according to the Emissions Monitoring Air Quality (EMAQ) guidance 'Control of Odour and Noise from Commercial Kitchen Extraction Systems (2022).' In the majority of cases, odour risk is able to be designed out through carefully designed kitchen extraction systems. Officers appreciate that different takeaway options correspond with different extraction requirements (e.g. fried foods with high grease content generate more of a requirement for extraction), however each use (including the worst-case) is able to be served by the high-level flue as proposed. The most intensive uses are only likely to require additional internal space for more robust extraction equipment and would therefore offer little alteration to the external façade, or to neighbouring occupiers, meaning it is possible to be dealt with via condition as opposed to up front.
- 6.24 Furthermore, there is other legislation; the Environmental Protection Act 1990, separate from planning, that would enable Environmental Health to address any statutory nuisance (noise/odour) were any to occur.
- 6.25 With regards to the amenity of future occupants of the proposed residential units, Part 2 (Residential Development) of the Quality Design SPD requires 25m<sup>2</sup> of communal space to be provided per unit (for 1 and 2 bedroom flats). With 4no. proposed units, this equates to 100m<sup>2</sup> of communal space, and none is proposed. However, Policy HSG.13 states that requirements for private amenity space may also be reduced or waived for residential uses on upper floors in town centres. This weighs against the proposal, but is not proposed as a reason for refusal in light of Policy HSG.13.
- 6.26 Officers note each unit complies with the Nationally Described Space Standards. This is currently not a requirement of adopted development plan policy, but will be once the emerging plan is adopted – policy DM30 of the emerging local plan states that 'all new market and affordable dwellings, including from permitted development, change of use and conversion, should comply with the nationally described space standards, as set out in the Technical Housing Standards (2015) or as superseded.' Therefore, the proposal also accords with policy DM30 of the emerging local plan, although this attracts limited weight prior to adoption of the new Local Plan.
- 6.27 Overall, the proposed scheme is considered to accord with Policy CS14 of the West Berkshire Core Strategy, but not with the Quality Design SPD in respect of the provision of outdoor amenity space.

## ***Highway Matters***

- 6.28 Policy CS13 of the West Berkshire Core Strategy relates to the need for development to promote safe travel and ensure adequate parking provision. Policy HSG.13 states that in appropriate cases the normal requirement for car parking provision will be reduced or waived for residential uses in upper floors in town centre areas.
- 6.29 The Highway Authority were consulted as part of this application. Overall, no objection has been raised to the proposed development, subject to conditions. There is a slight conflict between parking space number 1 and the doors for the bin and bike stores but, providing the doors are not left open (which is reasonable to expect), this is unlikely to cause a significant issue.
- 6.30 Officers note the comments of the Parish Council in respect of a lack of parking being available at the front, however the Highway Authority consider the 4no. spaces to the rear to be suitable for the proposed use in the proposed location. There is also a layby facility available on the High Street, which is commonplace for this type of use, and any parking for users of the takeaway would be relatively short stay.
- 6.31 Overall, the proposal is considered to comply with Policies CS13 and HSG.13.

## ***Flooding and Drainage***

- 6.32 Policy CS16 of the West Berkshire Core Strategy states that development will only be permitted if it can be demonstrated that:
- Through the sequential test and exception test (where required), it is demonstrated that the benefits of the development to the community outweigh the risk of flooding.
  - It would not have an impact on the capacity of an area to store floodwater.
  - It would not have a detrimental impact on the flow of fluvial flood water, surface water or obstruct the run-off of water due to high levels of groundwater.
  - Appropriate measures required to manage any flood risk can be implemented.
  - Provision is made for the long term maintenance and management of any flood protection and or mitigation measures.
  - Safe access and exit from the site can be provided for routine and emergency access under both frequent and extreme flood conditions.
- 6.33 The Lead Local Flood Authority were consulted, raising no objection. The applicant is advised to give consideration to the implementation of SuDS where possible, and should ensure Thames Water are notified and have confirmed they have capacity within their sewers. Therefore, the proposal is considered to accord with Policy CS16 of the West Berkshire Core Strategy.

## ***Ecology***

- 6.34 Policy CS17 of the West Berkshire Core Strategy states that biodiversity and geodiversity assets across West Berkshire will be conserved and enhanced.

Development which may harm, either directly or indirectly,

- Locally designated sites (Local Wildlife Sites and Local Geological Sites), or
- Habitats or species of principal importance for the purpose of conserving biodiversity, or
- The integrity or continuity of landscape features of major importance for wild flora and fauna

Will only be permitted if there are no reasonable alternatives and there are clear demonstrable social or economic benefits of regional or national importance that outweigh the need to safeguard the site or species and that adequate compensation and mitigation measures are provided when damage to biodiversity/geodiversity interests are unavoidable.

- 6.35 Paragraph 99 of ODPM 06/2005 states, inter alia, that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission can be granted, otherwise all relevant material considerations may not have been addressed in making the decision.
- 6.36 The Council's Ecologist was consulted, raising no objection following a review of the submitted Preliminary Roost Assessment, and subject to conditions. It is therefore considered that, subject to these conditions, the proposal accords with Policy CS17 of the West Berkshire Core Strategy.
- 6.37 A Biodiversity Net Gain Habitat Management and Monitoring Plan is not required as the proposal falls below the 25m<sup>2</sup> 'de minimis' threshold outlined in Regulation 4 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

### ***Landscaping***

- 6.38 Policy CS18 of the West Berkshire Core Strategy states that the District's green infrastructure will be protected and enhanced.
- 6.39 The Tree Officer was consulted, commenting that, given the residential use element, there is opportunity for a green amenity area and some soft landscaping to be incorporated into the development. This would help soften the various iterations of development that have occurred within this part of the conservation area and reduce the extent of hard surfacing on-site. Overall, no objection was raised subject to a landscaping condition. Subject to this condition, the proposal is considered to comply with Policy CS18 of the West Berkshire Core Strategy.

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

- 7.1 Although it is acknowledged that there are a relatively large number of pre-existing takeaways on offer on the High Street, it has been demonstrated that there is limited demand for office space in the local area. Given the current use is redundant and there does not appear to be a reasonable likelihood of tenant uptake (on the basis of the Market Office Space Assessment which indicates that there is c.1,600,000 square foot of unleased office space within 3 miles of the application site), Officers have taken the view that the proposed conversion (to a High Street use as defined by the NPPF) is of greater economic benefit than the building in its entirety remaining vacant. Whilst this is the case, it is considered that this element is finely-balanced in policy terms, and equally an argument could reasonably be made that an additional takeaway could be of minor harm to the vitality of the centre as it will reduce the diversity of the non-retail offering, and that an alternative use would be better suited in this location, as a number of objections have referred to.
- 7.2 The principle of new residential development in this location is in accordance with the development plan.
- 7.3 At the current time the Council cannot demonstrate a five year housing land supply. This increases the weight that should be given to the provision of housing. It also

engages the tilted balance in paragraph 11d of the NPPF with respect to the provision of housing. Paragraph 11 says that local planning authorities should grant planning permission without delay for development that accords with the development plan, and also (without a five year supply) to grant permission unless there is a strong reason for refusing, or any adverse impacts would significantly and demonstrably outweigh the benefits.

- 7.4 In terms of the residential element of the proposal, it is noted that the units are not provided with levels of private or communal amenity space that accord with those required by Part 2 of the Quality Design SPD. However, Policy HSG.13 allows for such requirements to be waived or reduced for such developments. In view of the current lack of housing land, this consideration has been given a reduced degree of weight in the overall planning balance.
- 7.5 For the reasons given above, on balance, the mixed-use proposal when read as a whole (both the commercial and residential elements) is considered to accord with the provisions of the National Planning Policy Framework, and the tilted balance in the presumption in favour of sustainable development is engaged.

## **8. Full Recommendation**

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

### ***Conditions***

1. **Commencement of development**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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).

2. **Approved plans**

The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

L.01 – Location Plan received on 05/02/2025

P.01 – Site Layout received on 05/02/2025

P.05 – Proposed Ground and First Floor Plans received on 14/01/2025

P.06 – Proposed Second Floor and Roof Plans received on 14/01/2025

P.07 – Proposed Elevations received on 14/01/2025

P.08 – Existing and Proposed Front and Rear Elevations Comparison Plan received on 14/01/2025

P.10 – Refuse & Cycle Store Front and Rear Elevations received on 14/01/2025

7304 FRA – Flood Risk Assessment and Drainage Statement received on 14/01/2025

Preliminary Roost Assessment received on 14/01/2025

24282/001/lj – BS4142 Sound Assessment received on 14/01/2025

10547A – Heritage Impact Assessment received on 14/01/2025

Planning, Design & Access Statement received on 14/01/2025

Cover Letter received on 14/01/2025

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

3. **Approved materials**

The materials to be used in the development hereby permitted shall be as specified on the plans and application form. Where stated that materials shall match the existing, those materials shall match those on the existing development in colour, size and texture.

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).

4. **Electric Vehicle Charging Points**

No dwelling shall be first occupied until electric vehicle charging points have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Thereafter, the charging points shall be maintained, and kept available and operational for electric vehicles at all times.

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.

5. **Parking/turning in accordance with approved plans**

No dwelling shall be occupied until the vehicle parking and turning spaces have been surfaced, marked out and provided in accordance with the approved plans. The parking and turning spaces shall thereafter be kept available for parking (of private motor cars and light goods vehicles) at all times.

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 imposed in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

6. **Cycle parking**

No dwelling shall be occupied until the cycle parking has been provided in accordance with the approved drawings and this area shall thereafter be kept available for the parking of cycles at all times.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the parking, storage and security of cycles. This condition is imposed in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

7. **Rooflight details**

No works to the roof shall take place until details of the rooflights to be installed in the building have been submitted to and approved in writing by the Local Planning Authority. Rooflights are to be conservation type, fitted flush with or below the roof covering. The rooflights shall be installed in accordance with the approved details.

Reason: To protect the character and appearance of the conservation area. This condition is imposed in accordance with the National Planning Policy Framework and Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026).

8. **Operating hours**

The use of the ground floor unit hereby permitted shall not take place outside of the following hours: Mondays to Sundays: 08:00 to 23:00

Reason: To safeguard the living conditions of surrounding occupiers. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

9. **Hours of work (construction)**

The hours of work for all contractors for the duration of the site development shall unless otherwise agreed by the Local Planning Authority in writing be limited to:

7.30 am to 6.00 p.m. on Mondays to Fridays

8.30 am to 1.00 p.m. on Saturdays

and no work shall be carried out on Sundays or Bank Holidays.

Reason: In the interests of the amenities of neighbouring occupiers. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

10. **Noise from air handling plant**

All plants, machinery and equipment installed or operated in connection with the carrying out of this permission shall be so enclosed and/or attenuated that the rating level therefrom does not exceed the existing background noise level when measured in accordance with BS4142:2014+A1:2019.

Reason: To protect future residents of the site and] the occupants of nearby residential properties from noise. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

11. **Control of delivery noise**

No deliveries including collection of waste shall be despatched or accepted outside the following times:

Monday to Friday 7.30 am to 6.00 p.m.

Saturdays - 8.30 am to 1.00 p.m.

Sundays or Bank Holidays- 8.30 am to 1.00 p.m.

Vehicle engines and refrigeration units shall be switched off during deliveries and no engine idling shall be permitted

Reason: To protect the amenity of residents living in the vicinity of the site and to reduce impact on air quality. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

12. **Odour mitigation scheme**

A scheme of works to minimise the emission of cooking odours shall be submitted to the Local Planning Authority for approval in writing. The hot food takeaway use shall not commence until the odour mitigation measures, as set out in the approved scheme, have been implemented in full. The odour mitigation measures shall be maintained and retained for the duration of the development.

Should the odour mitigation measures need to be altered at any time, a revised scheme of works to minimise the emission of cooking odours must be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of neighbouring occupiers. This condition is applied in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026) and Policy OVS.6 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

**13. Ecological enhancements**

All the ecological enhancement recommendations in the Preliminary Roost Assessment (November 2024, Pro Vision Limited), the enhancements should be evidenced by means of photographs of the features in-situ submitted to the local planning authority.

Reason: To enhance biodiversity in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026 and to ensure compliance with the condition.

**14. Compliance with ecology documents**

All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Roost Assessment (November 2024, Pro Vision Limited), as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination.

Reason: To ensure the adequate safeguarding of protected species in accordance with the National Planning Policy Framework, and Policy CS17 of the West Berkshire Core Strategy 2006-2026.

**15. Hard landscaping (prior approval)**

No part of the development shall be 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.

Reason: Landscaping is an integral element of achieving high quality design. 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.

**16. Soft landscaping (prior approval)**

No part of the development shall be 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, programme of works, 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. 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.

Reason: Landscaping is an integral element of achieving high quality design. 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.

Pre-commencement condition (No.7) agreed 24<sup>th</sup> April.

### ***Informatives***

1. **Proactive statement**

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.

2. **Biodiversity Net Gain**

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

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

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

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

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

### **EXEMPTIONS AND TRANSITIONAL ARRANGEMENTS**

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

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
  - (i) the original planning permission to which the section 73 planning permission relates\* was granted before 12 February 2024; or
  - (ii) the application for the original planning permission\* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:



4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

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

4.2 Development below the de minimis threshold, meaning development which:

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

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

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

4.5 Self and Custom Build Development, meaning development which:

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

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

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

#### APPLICABLE EXEMPTION

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

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).

### 3. CIL

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](http://www.westberks.gov.uk/cil)

4. **Access construction details**

The Asset Management team, West Berkshire District Council, Environment Department, Council Offices, Market Street, Newbury, RG14 5LD, or [highwaysassetmanagement@westberks.gov.uk](mailto:highwaysassetmanagement@westberks.gov.uk) should be contacted to agree the access construction details and to grant a licence before any work is carried out within the highway. A formal application should be made, allowing at least four (4) weeks notice, to obtain details of underground services on the applicants behalf.

5. **Highway damage**

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.

6. **Extraordinary traffic**

The attention of the applicant is drawn to the Highways Act 1980, which enables the Highway Authority to recover expenses due to extraordinary traffic.

7. **Official Postal Address**

Please complete and online street naming and numbering application form at <https://www.westberks.gov.uk/snn> to obtain an official postal address(s) once development has started on site. Applying for an official address promptly at the beginning of development will be beneficial for obtaining services. Street naming and numbering is a statutory function of the local authority.