

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(2)	26/00036/MDOPO Great Shefford	9 <sup>th</sup> March 2026 <sup>1</sup>	Modification of Planning Obligation on approved application 87/30084/ADD (130084) - the Seventh Schedule section (F) of legal agreement dated 24th May 1988.  Street Record, Spring Meadows, Great Shefford  Mr Paul Carter

<sup>1</sup> Extension of time agreed with applicant until tbc

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=T8LE6RRD0OX00>

**Recommendation Summary:** GRANT PERMISSION subject to the completion of a deed of variation alongside the original planning obligation.

**Ward Member(s):** Councillor Clive Hooker

**Reason for Committee Determination:** Over 10 letters of objection

**Committee Site Visit:** N/A

#### 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 modification of planning obligation on approved application 87/30084/ADD (130084) - the seventh schedule section (F) of a Section 52 legal agreement dated 24th May 1988 (Section 52 Agreements are essentially the precursor to S106 Agreements).
- 1.3 The application site includes the entire residential development of Spring Meadows however the proposal mainly concerns the historic football pitch/agricultural land located to the north-west of the site, shown on the plan below taken from the original Section 52 Legal Agreement.
- 1.4 A planning application for the development of the land for 16 dwellings (25/01800/FULMAJ) is currently pending consideration. However, this is a separate proposal and does not form part of the assessment of the current application.

## 2. Planning History

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

Application	Proposal	Decision / Date
87/30084/ADD	Residential development and football pitch	Approved / 26.10.1988

## 3. Legal and Procedural Matters

- 3.1 **Publicity:** Publicity has been undertaken in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and the Council's Statement of Community Involvement. Site notice were displayed on 3<sup>rd</sup> February at the gate to the land at Spring Meadows, with a deadline for representations of 24<sup>th</sup> February 2026. Notification letters were sent to neighbours on the 22<sup>nd</sup> January with a deadline for representations of 12<sup>th</sup> February 2026.
- 3.2 **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.
- 3.3 **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>

- 3.4 **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.
- 3.5 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.
- 3.6 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.
- 3.7 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.
- 3.8 **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.
- 3.9 Any interference with property rights is in the public interest and in accordance with the Town and Country Planning Act 1990 regime for controlling the development of land.

This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## 4. Consultation

### ***Statutory and non-statutory consultation***

- 4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report.

<b>Great Shefford Parish Council:</b>	<p>Objection - The covenant was intentionally included to serve a clear planning purpose and has long been an established part of the local planning framework. Residents purchased their homes with the understanding that, if the land ceased to be used for football, it would be retained for agricultural use. This expectation has influenced property decisions for many years.</p> <p>The Parish Council considers that altering the covenant now would undermine the original intent of the agreement and weaken the protections it provides. They therefore request that the proposed modification be refused.</p>
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### ***Public representations***

- 4.2 Representations have been received from 17 contributors, all of which object to the proposal.
- 4.3 The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report. In summary, the following issues/points have been raised:
- Land not suitable for residential development
  - Original permission granted on the basis that land will be laid out as open recreational space
  - Lack of use does not mean planning obligation is obsolete
  - Flooding/surface water impacts
  - Should be used for leisure or school activities
  - Removes protection of land from building
  - Pitch not used due to increasing fees and flooding
  - Not in accordance with national and local policies
  - Wildlife impacts
  - Protected National Landscape
  - Impact on deeds

## 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.

Development Plan Document	Relevant Policies
<u>West Berkshire Local Plan Review 2023-2041</u>	<b>Site Allocations</b> <ul style="list-style-type: none"> <li>• Policy RSA23 Land west of Spring Meadows, Great Shefford</li> </ul>

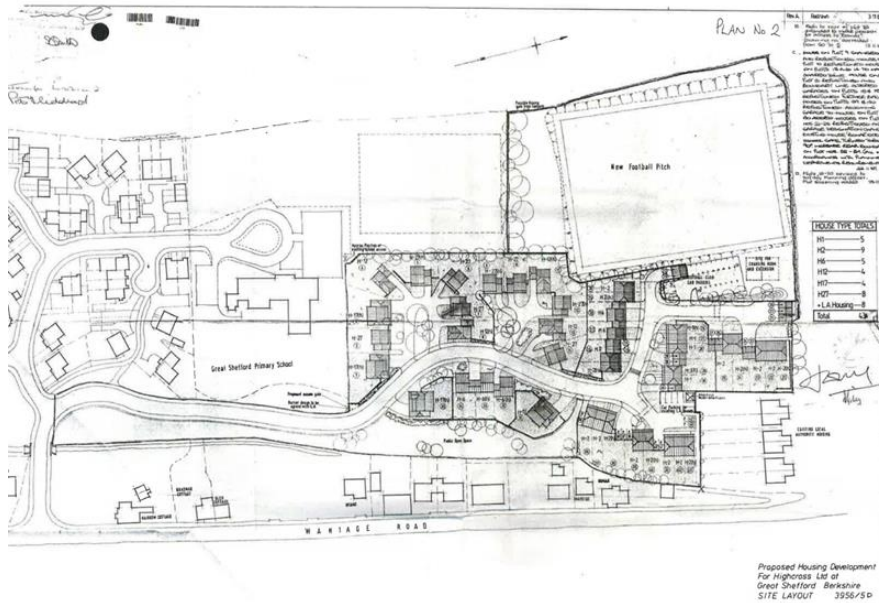
5.2 The following material considerations are relevant to the consideration of this application:

- The National Planning Policy Framework (NPPF)
- The Planning Practice Guidance (PPG)
- Planning Obligations SPD (2014)

## 6. Appraisal

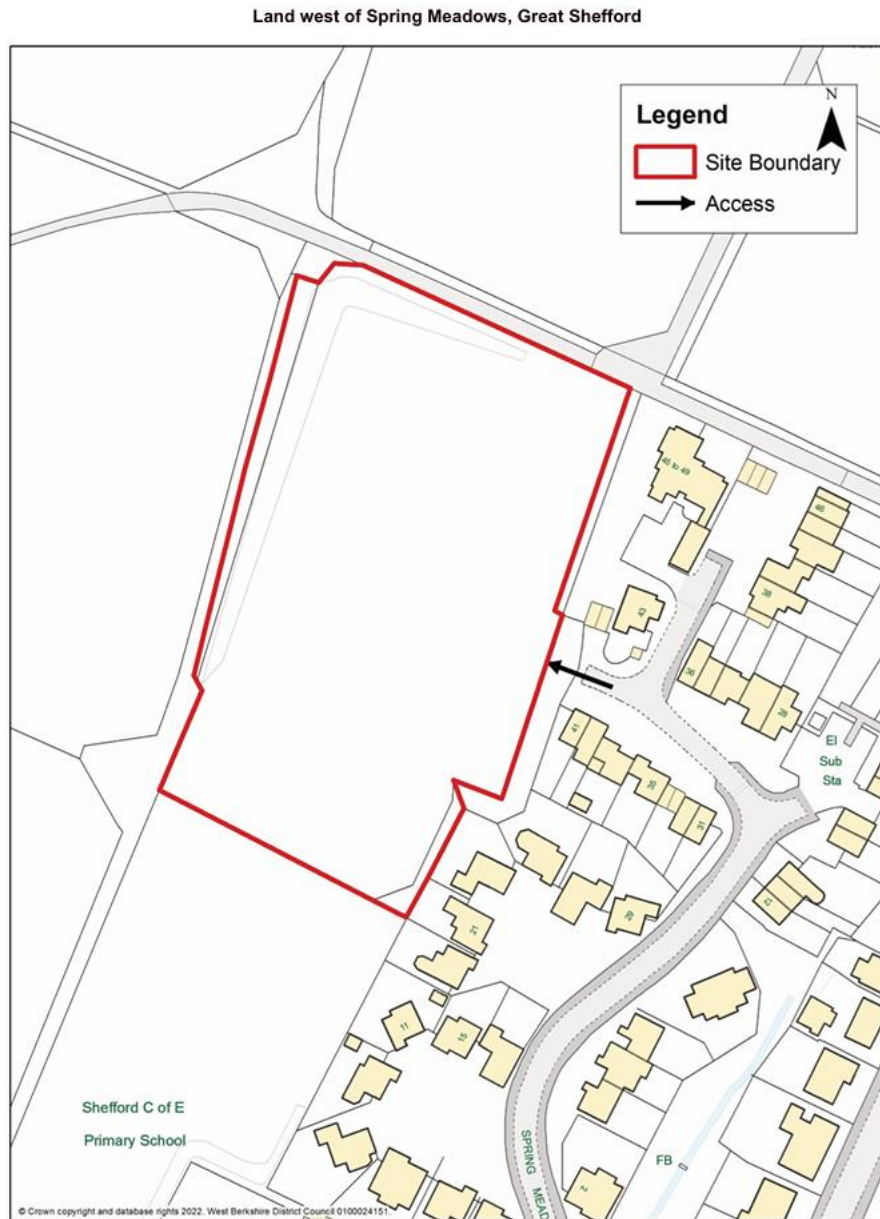
- 6.1 A Section 52 planning obligation refers to a legal agreement made under Section 52 of the Town and Country Planning Act 1971. These agreements were the predecessor to today's Section 106 agreements. Their purpose was to secure planning-related requirements such as controlling land use, securing open space, or delivering infrastructure that could not be imposed through planning conditions alone.
- 6.2 All Section 52 agreements remain legally binding unless they are formally modified or discharged. Applications to modify or discharge them are now dealt with under the current planning legislation, and the key test is whether the obligation continues to serve a useful planning purpose.
- 6.3 Planning permission 130084 (87/30084/ADD) was granted for residential development and the provision of a football pitch.
- 6.4 A section 52 agreement was attached to this permission required that the land to the north-west be designated as open space for recreational use (see fig.1 below). In addition, a planning obligation was secured, setting out requirements for this land to be provided and used as a football pitch. Under the seventh schedule (Section F) of the obligation, the land was restricted to use as a football pitch or for agricultural purposes, subject to obtaining consent from the Council.

Fig. 1 Plan 2 Section 52 Agreement



- 6.5 On 5 March 1998, the Council received a letter explaining that, in accordance with the lease dated 1 January 1994 between West Shefford Farms Limited and the Trustees of West Shefford Football Club, the landlord was entitled to recover the land if the club ceased its activities or no longer maintained a team. The letter confirmed that the landlord had taken possession of the land because the football club had ceased to exist.
- 6.6 On 14 August 2008, following an enforcement enquiry, a letter was submitted to the Council stating that the land had not been used as a football pitch for more than 10 years. It also clarified that, under the seventh schedule (Section F) of the planning obligation, planning permission was not required to revert the land from a football pitch to agricultural use, but confirmation from the Council's legal department was necessary.
- 6.7 On 9 September 2008, the Council wrote to the landowner's agent confirming that the change of use from football pitch to agriculture was agreed in accordance with the seventh schedule (Section F).
- 6.8 The site is now allocated for residential development within the West Berkshire Local Plan Review (2023–2041) under Policy RSA23 – Land west of Spring Meadows, Great Shefford (see fig.2 below). As a result of this allocation, the requirements of the seventh schedule (Section F) of the original Section 52 planning obligation no longer serve a useful purpose.

Fig.2 Non-Strategic Residential Site Allocations Policy RSA23 – Land west of Spring Meadows, Great Shefford



### ***Other matters***

- 6.9 While objections have been received regarding flooding, ecology, land ownership deeds, and the residential development proposed under application 25/01800/FULMAJ, these matters are not relevant to the consideration of the current application. This application relates solely to whether the seventh schedule (Section F) of the planning obligation continues to serve a useful planning purpose. Any future proposal for development on this land would be subject to a full planning application and assessed on its merits in accordance with national and local planning policy.

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

- 7.1 It has been adequately demonstrated that the seventh schedule (Section F) under the original section 52 planning obligation secured under permission 130084 (87/30084/ADD) no longer serves a useful purpose. Therefore, the seventh schedule (Section F) can be deleted.

## **8. Full Recommendation**

- 8.1 To delegate to the Development Manager to GRANT PERMISSION subject to the completion of a deed of variation alongside the original planning obligation.