

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	26/00036/MDOPO Great Shefford	9 th March 2026 ¹	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
¹ 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=T8LE6RRD00X00>

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
25/01800/FULMAJ	Proposed 16no dwellings, new access, public open space and landscaping	Pending Consideration

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 3rd February at the gate to the land at Spring Meadows, with a deadline for representations of 24th February 2026. Notification letters were sent to neighbours on the 22nd January with a deadline for representations of 12th 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.

Great Shefford Parish Council:	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. 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.
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Public representations

- 4.2 Representations have been received from 18 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>	Site Allocations • Policy RSA23 Land west of Spring Meadows, Great Shefford

- 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

Legislative and Policy Context

- 6.1 This application seeks modification of a planning obligation contained within a Section 52 Agreement dated 24 May 1988 associated with planning permission 87/30084/ADD.
- 6.2 Section 52 agreements were the predecessor to Section 106 agreements and continue to have legal effect unless formally modified or discharged. Whilst entered into under earlier legislation, the principles that now apply to the review of planning obligations are reflected in Section 106A of the Town and Country Planning Act 1990.
- 6.3 The key question for the Local Planning Authority is whether the obligation continues to serve a useful planning purpose. Where an obligation continues to serve such a purpose, consideration must be given to whether that purpose could be equally well served by a modified obligation. Where the obligation no longer serves a useful planning purpose, modification or discharge is justified.
- 6.4 The assessment is therefore concerned with the present planning purpose and effect of the obligation rather than whether the obligation was justified when originally entered into. The application is not a determination of the acceptability of any future residential development on the land.

Original Purpose of the Obligation

- 6.5 Planning permission 130084 (87/30084/ADD) granted consent for residential development together with the provision of a football pitch. A Section 52 Agreement was completed in connection with that permission to secure a range of planning obligations.
- 6.6 The Seventh Schedule, Section F, required the land shown on Fig.1 to be used as a football pitch and further restricted future uses of the land to either:

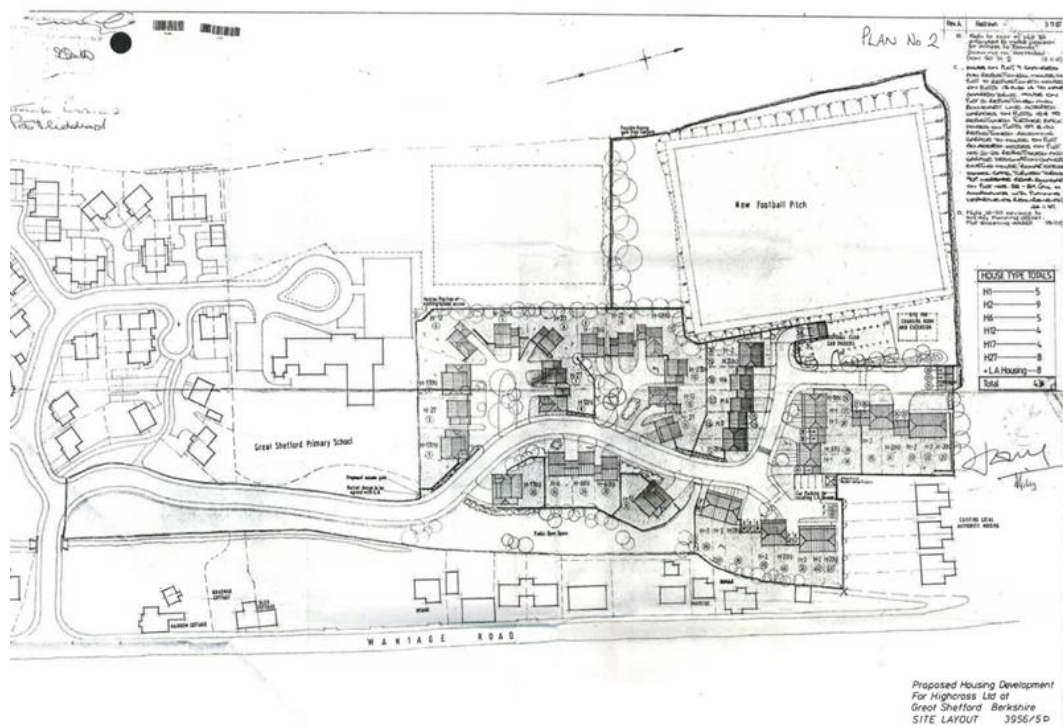
- use as a football pitch; or
- agricultural use,

subject to obtaining consent from the Council.

6.7 Having reviewed the terms of the agreement and associated correspondence submitted with the application, officers consider that the primary planning purpose of this obligation was:

1. to secure the provision of recreational land associated with the residential development approved in 1988;
2. to ensure the land remained free from alternative forms of development; and
3. to control the future use of the land in a manner consistent with the planning objectives prevailing at that time.

Fig. 1 Plan 2 Section 52 Agreement



Subsequent Changes in Circumstances

- 6.8 The evidence submitted demonstrates that the football club ceased operating many years ago.
- 6.9 Correspondence submitted with the application records that the lease between West Shefford Farms Limited and the Trustees of West Shefford Football Club enabled recovery of the land if the football club ceased its activities. The Council was notified in March 1998 that the football club had ceased to exist and that the landowner had resumed possession of the land.
- 6.10 Further correspondence submitted in August 2008 stated that the land had not been used as a football pitch for in excess of ten years and sought clarification regarding reversion of the land to agricultural use. The Council subsequently confirmed (in a

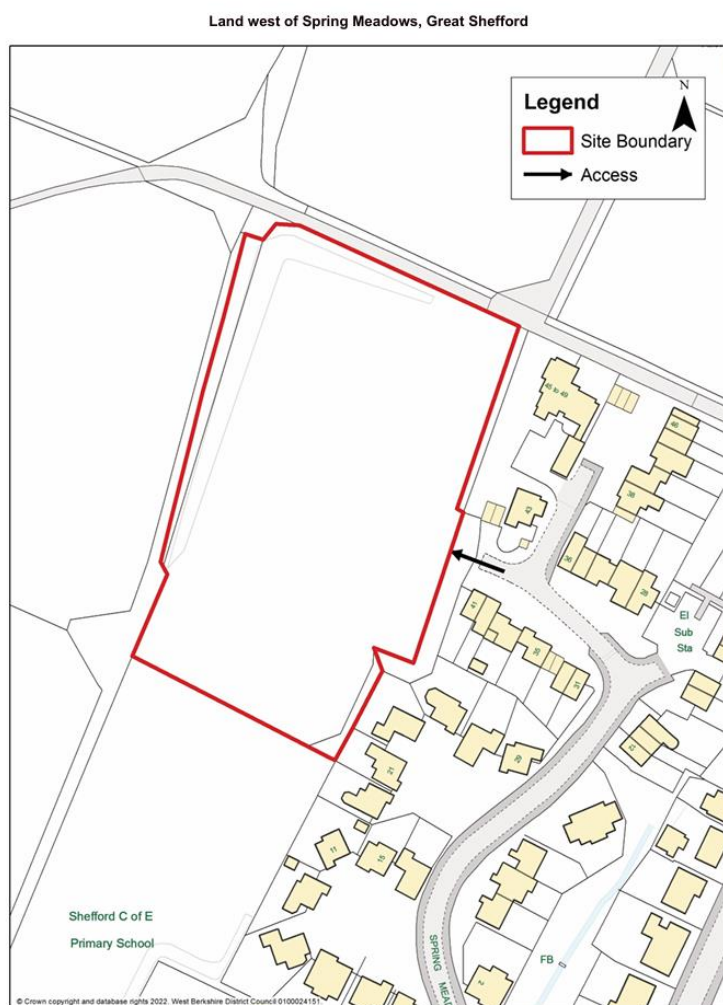
letter dated 9th September 2008) that a return to agricultural use accorded with the seventh schedule (Section F).

- 6.11 The land has therefore not performed its original recreational function for approximately three decades and has not operated as an active football pitch for a considerable period of time. Officers attach significant weight to this fact when assessing whether the original planning purpose continues to be served.

Effect of Current Development Plan Policy

- 6.12 The most significant change in planning circumstances since the agreement was entered into is the adoption of the West Berkshire Local Plan Review 2023-2041.
- 6.13 The application site forms part of the land allocated under Policy RSA23: Land West of Spring Meadows, Great Shefford (see Fig.2 below). The allocation was established through the statutory development plan process and was subject to public consultation, sustainability appraisal, independent examination and formal adoption.
- 6.14 Through that process the Council concluded that residential development on the site is acceptable in principle, subject to compliance with the detailed requirements of Policy RSA23 and other relevant development plan policies.
- 6.15 The restriction contained within Schedule 7(F) was intended, amongst other things, to prevent alternative forms of development occurring on the land without the Council's consent. However, the adopted development plan now supports residential development in principle on the site. As such, the obligation no longer aligns with the current planning strategy established by the adopted Local Plan.
- 6.16 Officers therefore consider that the planning objective previously served by Schedule 7(F), i.e. to prevent alternative development on this land, has been superseded by the adoption of Policy RSA23. The requirements of the seventh schedule (Section F) therefore no longer serves a useful purpose.

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



Assessment of Objections

6.17 Objectors have raised the following concerns:

- the original agreement was intended to provide long-term protection against development;
- residents purchased properties on the understanding that the land would remain open;
- the football pitch could potentially be brought back into use; and
- the original purpose of the agreement should be retained.

6.18 These representations have been carefully considered. Officers recognise that local residents may have reasonably understood the land would remain subject to the restrictions contained within the agreement. However, planning obligations are not permanent or immutable controls. Planning legislation expressly provides mechanisms through which such obligations may be modified or discharged where circumstances have changed.

- 6.19 The relevant test is not whether local residents wish the restriction to remain in place, nor whether it served a useful purpose in 1988. The question is whether the restriction continues to serve a useful planning purpose in current planning circumstances.
- 6.20 For the reasons set out above, officers consider that the cessation of the football use, the Council's acceptance of agricultural use in 2008 and the adoption of Policy RSA23 collectively demonstrate that the original purpose of the restriction no longer survives in its original form.
- 6.21 Matters raised by objectors that are not relevant to this application include:
- flood risk;
 - drainage;
 - ecology and biodiversity;
 - impact upon the National Landscape;
 - highways;
 - the principle of housing development; and
 - impacts arising from application 25/01800/FULMAJ.
- 6.22 These matters are not determinative in the assessment of the current application because they do not directly relate to whether Schedule 7(F) continues to serve a useful planning purpose.
- 6.23 Should a future planning application be approved on the site, those matters would require detailed assessment against relevant national and local planning policy within the context of that application.

Relationship with Application 25/01800/FULMAJ

- 6.24 The Council is currently considering application 25/01800/FULMAJ for residential development of the site. However, that application remains separate from the determination of the current proposal.
- 6.25 Granting this application would not constitute approval of residential development. Any development proposal would remain subject to full assessment against Policy RSA23, the wider development plan and all material planning considerations before planning permission could be granted.

7. Planning Balance and Conclusion

- 7.1 Officers are satisfied that significant changes in planning circumstances have occurred since the Section 52 Agreement was completed in 1988.
- 7.2 The football club for whose benefit the obligation was originally secured has long ceased to operate, the land has not functioned as a football pitch for many years, the Council accepted reversion to agricultural use in 2008, and the site has subsequently been allocated for residential development under the adopted West Berkshire Local Plan Review 2023-2041.
- 7.3 Having regard to these factors, officers conclude that the Seventh Schedule Section F restriction no longer serves a useful planning purpose.
- 7.4 The remaining provisions of the 1988 agreement would remain unaffected and the modification would be secured through a Deed of Variation linked to the original agreement.

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.