

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	243098
Site Address:	Stokes Farm, Binfield Road, Wokingham, Berkshire, RG40 5PR
Expiry Date:	15 February 2025
Site Visit Date:	9 January 2025
Proposal: Prior approval submission for the proposed change of use of an agricultural building to 5no. residential dwellings (Use Class C3) with associated works.	

PLANNING CONSTRAINTS/STATUS

Water Utility Consultation Zones
Affordable Housing Thresholds
Bat Roost Habitat Suitability
Scale and Location of Development Proposals
Great Crested Newt Consultation Zone
Nuclear Consultation Zone
Landscape Character Assessment Area
SSSI Impact Risk Zones
Thames Basin Heaths SPA Mitigation Zones
Local Plan Update Submitted Sites

PLANNING POLICY/LEGISLATION

Town and Country Planning Act 1990 (as amended)

Section 55	Provides that 'development' includes the carrying out of building operations on land, and 'building operations' includes structural alterations or additions to buildings.
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Section 57	Planning permission is needed for all development of land.
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Section 187a	Enforcement for breach of conditions
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The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Section 7	Prior approval applications: time periods for decision
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Article 3	In conjunction with Schedule 2, Part 3 Class Q grants planning permission for the change of use of buildings on agricultural units and former agricultural buildings to dwellinghouses
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Article 4	Provides that the planning authority may give direction to restrict the effect of Article 3
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PLANNING HISTORY

Application No.	Description	Decision & Date
231260	Prior approval submission for the proposed	Refused:

	change of use of part of an agricultural building to 1 no. dwelling (Use Class C3) with associated works.	19.07.2023
221948	Prior approval submission for the proposed change of use of part of an agricultural building to 2 no. dwellings (Use Class C3) with associated works.	Refused: 23.08.2022
220051	Prior approval submission for the proposed change of use of an agricultural building to 4 no. dwellings (Use Class C3) with associated works.	Refused: 01.02.2022
213795	Prior approval submission for the proposed change of use of an agricultural building to a dwelling (Use Class C3) with associated works.	Refused: 11 January 2022
212706	Prior approval submission for the proposed change of use of an agricultural building to a dwelling (Use Class C3) with associated works.	Refused: 04 October 2021
241270	Prior approval submission for the proposed change of use of an agricultural building to 1 no. dwelling (Use Class C3) with associated works.	Refused: 12 July 2024

CONSULTATION RESPONSES

Internal

WBC Environmental Health – No comments received
WBC Drainage – No objection
WBC Highways – Request additional information
WBC CIL – Advice provided
WBC Ecology - Request additional information

External

N/A

REPRESENTATIONS

Parish/Town Council	No comments received
Ward Member(s)	No comments received
Neighbours	No comments received

PART Q.1 APPRAISAL

Town and Country Planning Act 1990 (as amended)			Yes	No
1	s.55	Does it constitute development?	✓	
2	s.191	Would it be contrary to an enforcement notice?		✓
3	s.187a Art.3 (4)	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)			Yes	No
4	Art.3 (5)	Are the building operations involved in the construction of the original building lawful?	✓	
5	Art.4	Is there an 'Article 4 Direction' in effect for the site?		✓
6	Sch.2 Q. (a)	Does it consist of a change of use from (i) a building that is part of an established agricultural unit and any land within that buildings curtilage, or (ii) a former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage to a dwelling house?	✓	
7	Sch.2 Q. (b)	Does it consist of development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a)? or;		✓
8	Sch.2 Q. (c)	Does it consist of development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a)?	✓	
9	Q.1(a)	Was the site part of an established agricultural unit— (i) on 24 th July 2023, or (ii) where the site became part of an established agricultural unit after 24 th July 2023, for a period of at least 10 years before the date development under Class Q begins?	✓	
10	Q.1(b)	In the case of a site that was (but is no longer) part of an established agricultural unit (i) was the site part of an established agricultural unit on 24 th July 2023? (ii) where the site ceased to be part of an established agricultural unit after 24 th July 2023, was the site part of an established agricultural unit for a period of at least 10 years before the date development under Class Q begins? (ii) since ceasing to be part of an established agricultural unit, was the site used for an non-agricultural purpose?		✓
11	Q.1(c)	Would the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceed 150 square meters?		✓
12	Q.1(d)	Would the development under Class Q (together with any previous development under Class Q) within the original limits of an established agricultural unit result in (i) (i) The cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order exceed 10? (ii) (ii) The cumulative floor space of dwellinghouses having a use falling within Class C3 (dwellinghouse) of the Schedule to		✓ ✓

		the Use Classes Order exceed 1,000 square metres?		
13	Q.1(e)	Is the site occupied under an agricultural tenancy (unless the express consent of both the landlord and the tenant has been obtained)?		✓
14	Q.1(f)	Less than 1 year before the date development begins, has (i) (i) an agricultural tenancy over the site been terminated, and (ii) (ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use?		✓ ✓
15	Q.1(g)	Has development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) been carried out on the established agricultural unit during the period which is 10 years before the date of development under Class Q begins?		✓
16	Q.1(h)	Would the development result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point, other than? (i) the extension of the building allowed by paragraph Q.1 (i) (ii) protrusions of up to 0.2 metres to accommodate building operations allowed by paragraph Q.1(j)(i)?		✓ ✓
17	Q.1(i)	Would the development under Class Q(b) results in an extension that— (i) (i) has more than one storey? (ii) (ii) is sited anywhere other than to the rear of the building? (iii) (iii) extends beyond the rear wall of the existing building by more than 4 metres? (iv) (iv) has eaves the height of which exceed the height of the eaves of the existing building? (v) (v) is higher than whichever is the lower of- (aa) the highest part of the roof of the existing building, or (bb) a height of 4 metres above the ground? (vi) extends beyond a wall that forms a side or principal elevation of the existing building, or (vii) would be sited on land that, before the development under Class Q(b) is not covered by a hard surface that was provided on the land by virtue of any development, and- (aa) the hard surface was provided on the land on or before 24 th July 2023, or (bb) where the hard surface was provided on the land after 24 th July 2023, the hard surface has not been situated on the land for a period of at least 10 years		✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓

		before the date development under Class Q(b) begins?		
18	Q.1(j)	Would the development under Class Q(c) consist of building operations other than- (i) the installation or replacement of- (aa) windows, doors, roofs or exterior walls or, (bb) water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse, and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(j)(i)?		✓ ✓ ✓
19	Q.1(k)	Is the site is on article 2(3) land?		✓
20	Q.1(l)	Is the site is, or does it form part of— (i) a site of special scientific interest; (ii) a safety hazard area; (iii) a military explosives storage area?		✓
21	Q.1(m)	Is the site, or does it contain, a scheduled monument?		✓
22	Q.1(n)	Is the building a listed building?		✓
23	Q.1(o)	Would the existing building, excluding any proposed extension under Class Q(b) but including any proposed building operations under Class Q(c), be capable of complying with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(3) as read with the notes dated 19th May 2016 which apply to it?	✓	
24	Q.1(p)	Does the building have suitable existing acces to a public highway?	✓	

PART Q.1 APPRAISAL

On 21st May 2024, amendments to the GPDO (including Class Q) set out the transitional arrangement that ‘a developer may, notwithstanding the amendments made by article 3, make an application for a determination as to prior approval in relation to previously permitted development under Class Q until the end of 20th May 2025’.

Para Q.C states that development is permitted where referred to in paragraph (a) together with building operations “reasonably necessary” to “convert” the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

The PPG states that ‘the right assumes that the agricultural building is capable of functioning as a dwelling’. The PPG goes onto state ‘it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential

use that the building would be considered to have the permitted development right.'

The existing building has a floor area of approximately 730sqm which will be retained for conversion to five separate dwellings. Q.1(d)(ii) outlines a maximum gross floor area of 1,000 square metres which the proposal accords with. Furthermore, no more than ten dwellings will be permitted under class Q throughout the wider holding, thus complying with Q.1(d)(i).

The PPG aligned to paragraph Q.1(j) refers to the installation or replacement of windows, doors, roofs, exterior walls and partial demolition to the extent reasonably necessary as example operations that can be undertaken to facilitate a conversion. Bar a small area of demolition to the existing lean-to protruding structure of circa 20 square metres, the installation of a new roof, cladding, doors and windows the conversion proposes the retention of all external walls. These operational works do not fall foul of Q.1(j) as these matters are reasonably necessary to facilitate the conversion of the chicken shed, without constructing materially different external walls.

Whilst the cladding forming part of the external elevations are proposed to be upgraded and amended (to weathered English chesnut/cedar), this would not impact the overarching elevation's structural integrity which is formed by a cement damp course and portal frame, nor amass a 'new elevation' for the purposes of the order. The same applies to the roof which is corrugated metal at current, overlapping steel and concrete beams. Replacement and upgrade of this does not constitute building works that are not reasonably necessary to facilitate residential use.

When applying the principles established within caselaw of *Hibbitt and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin), the proposal based on the information submitted would amount to a conversion as opposed to a rebuild. As within this submission the proposal proposes the retention of the later added 'wing' extensions (therein constituting a conversion of the building as opposed to a rebuild), reason for refusal 1 of 241270 is overcome.

Though the building and required works fall within Q.1, officers note that no plans identifying the overall holding have been submitted other than minor details on operation within the submitted planning statement. However, previous information submitted for appeal ref: APP/X0360/X/23/3330791 (determined 4 September 2024) included information about the wider holding which showed a mix of uses including a commercial gym. The Planning Statement for the gym application ref: (162067) stated that other non-agricultural uses are operating on the holding; 'some 20 years ago various buildings on the farm which were no longer required or suited for modern agricultural purposes were converted, subdivided and let to small enterprises, mainly for storage or light industrial uses.'

Notwithstanding this, the Inspector ruled in paragraph 11 that *"The buildings which are indicated to be used for purposes other than agriculture fall outside of the appeal site. The appeal site is not the same as the agricultural unit which is much more extensive in size. Even if I were to accept that uses other than agriculture, have or are taking place within other buildings within the farm, I am satisfied the appeal building falls within an established agricultural unit."* Accordingly, the LPA do not dispute that the building falls into an existing agricultural unit which overcomes previous reason for refusal 2 of application 241270.

PART Q.2 APPRAISAL

Q.1 (1)

Where the development proposed is development under Class Q(a) together with development under Class Q(c), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

Transport and highways impacts of the development

Whilst WBC Highways have requested that the first 10m of access road is upgraded to a minimum width of 4.1m to accommodate two-way traffic and the existing gate is required to be removed, this is not possible under Class Q and without these amendments, suitable access can be afforded by motor vehicle which is appropriate for the modest quantum of development proposed. Furthermore, within 6 former prior approval submissions made under Class Q, highways safety has not been sited as a reason for refusal, nor objection raised.

A total of nine parking spaces of dimensions 5m x 2.5m are proposed within the red line. Sufficient parking can be afforded alongside the building, and along the access track without impeding access or ingress of fire vehicles or refuse vehicles.

The LPA's prior approval is not required to assess access and highway safety.

Noise impacts of the development

The site is located within a functioning agricultural unit, with the agricultural storage use occurring north of the former poultry shed.

It has been clarified within the submitted planning statement that the surrounding land to direct north, east and south of the proposal will be retained as a meadow (forming land associated within the Keep Hatch SANG). Accordingly, with the scale of surrounding uses clarified, no detrimental noise impact of the development is expected, particularly given the building's location circa 85 metres from the nearest agricultural activity (storage) and the proposed integration of triple glazed windows.

Contamination risks on the site

Section 78A (2) of Part 2A of the Environmental Protection Act 1990(a) states that

'contaminated land' is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land that (a) that significant harm is being caused or (b) significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused.

No response has been received by the Council's EH officer, however, the LPA notes that land contamination has not been raised as an objection on previous Class Q submissions on site and the use has not changed within this time (other than decreasing scale of agricultural activities).

Accordingly, the LPA's prior approval is not required to assess contamination matters.

Flooding risks on the site

The development is in Flood zone 1 according to the EA mapping. There are some areas around the building at risk from surface water flooding. The council's Drainage Engineer has however reviewed the application and requested additional information. For consistency with the LPA's previous decisions on site, a surface water drainage condition has been appended to the permission.

Whilst the LLFA have stated that foul discharge is the responsibility of Thames Water, in this instance, the applicant proposes a septic tank system to manage foul sewage and drainage.

The LPA's prior approval is not required in relation to flood risk.

Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order

The PPG states:

'When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.'

The buildings have a shared road access (inter-dwelling as well as the agricultural storage use to the north) and utilities (water and electric) which would be provided to dwellings in the vicinity.

In terms of access to services, the buildings are unsuitably located and unsustainable for residential use. However, there is no objection on sustainable location grounds because the PPG advises that the permitted development right does not apply a test in relation to sustainability of location.

The dwellings would provide a good standard of accommodation in excess of Nationally Described Space Standards, with attractive views of open countryside. The building's direct curtilage would form part of residential use.

The submitted garden plan shows that this will be subdivided using native hedging. Whilst the garden depths for plots 1-4 are below that recommended within the borough design guide, this is not uncommon with the conversion of agricultural buildings which often have limited associated curtilages. The remaining amenity space (6.3 metres at the shortest) would be sufficient for some degree of outdoor activities for example the hanging and drying of clothes.

The total area of the gardens is dependent on the amount of bedrooms in which it serves. Access to the amenity space of plots 2,3 and 4 are not clarified, however, it appears residents would access their private amenity areas through off-site land. Whilst the garden associated with plot one does not feature buffering (meaning it faces the shared access and parking court), the limited nature of the development and passive agricultural activities to the north would mean this is not undesirable for future occupants.

Though light agricultural activities will occur adjacent to the site (namely agricultural storage and the keeping of a modest number of chickens), given their reduced scale following the reduction/ removal of poultry farming, there are no uses nearby that would cause a significant impact with regard to noise, odour, or any other impact that might hamper the living conditions of occupants of the dwelling, or make it considered 'undesirable'.

Further, the Planning Practice Guidance (paragraph 109) advises that in absence of formal definition within the General Permitted Development Order, when coming to a judgement on whether development is impractical or undesirable they're dictionary definitions should be referred to. Paragraph 109 states: "Impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable".

The site is not in a location, nor the buildings sited in a position, that would make it otherwise impractical or undesirable for their conversion from agricultural to residential (class C3) use.

The design or external appearance of the building

The proposed design would utilise materials including naturally weathered timber cladding (comprising of English chestnut/cedar) and glazed fenestration. The metal corrugated roof style will be retained. Whilst the materials chosen do not necessarily retain the agricultural appearance of the original poultry shed (other than its shape and structure), the use of natural materials to some degree aids the building's integration into the surrounding meadow, which is considered to be a mild improvement when contrasted to the stark corrugated metal clad building as existing.

For this reason the proposal is not considered to significantly harm the existing character of the area.

Moreover, the building will not be readily visible from the main public view-points, by virtue of a private access road and will not appear as a significantly harmful, intrusive feature in the landscape, or the site's countryside setting from any vantage points.

The provision of adequate natural light in all habitable rooms of the dwellinghouses

The proposed development has been amended with thought to the amenity of occupants including their access to natural light. All habitable rooms of the proposed dwellinghouse will benefit from natural light from windows and where necessary supplemented by rooflights. This is justified by the submitted day light assessment undertaken by the applicant.

The provisions of paragraph W (prior approval)

The following provisions apply where a developer is required to make an application for a determination as to whether the prior approval will be required.

The application must be accompanied by—

a written description of the proposed development, which, in relation to development proposed under Class C, M, N or Q of this Part, must in the same application include any building or other operations;

(ba) a plan indicating the site and showing the proposed development;

(bb) in relation to development under Class Q of this part, a statement specifying –

The number of smaller dwellinghouses proposed;

The number of larger dwellinghouses proposed;

Whether previous development has taken place under Class Q within the established agricultural unit and, if so, the number of smaller and larger dwellinghouses developed under Class Q.

the developer's contact address;

the developer's email address if the developer is content to receive communications electronically; and

where sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment, together with any fee required to be paid.

The submitted elevations, covering statements and design and access statement have been submitted as part of the application process giving all necessary details along with the application form, relevant plans, fees and contact details. The above criteria of Paragraph W are met.

The local planning authority may refuse an application where, in the opinion of the authority—

the proposed development does not comply with, or

the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.

As above, within the 'assessment' paragraph, the application complies with the relevant criteria within Class Q.

Sub-paragraphs (5) to (8) and (10) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

Not applicable.

Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult—

where the increase or change relates to traffic entering or leaving a trunk road, the highway authority for the trunk road;

the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority; and

the operator of the network which includes or consists of the railway in question, and the Secretary of State for Transport, where the increase or change relates to traffic using a level crossing over a railway.

Not applicable.

Where the application relates to prior approval as to the flooding risks on the site, on receipt of the application, the local planning authority must consult the Environment Agency(8) where the development is—

in an area within Flood Zone 2 or Flood Zone 3; or

in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (zc)(ii) in the Table in Schedule 4 to the Procedure Order.

Not applicable.

The local planning authority must notify the consultees referred to in sub-paragraphs (5) and (6) specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

Not applicable.

*The local planning authority must give notice of the proposed development—
by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—describes the proposed development; provides the address of the proposed development; specifies the date by which representations are to be received by the local planning authority; or
by serving a notice in that form on any adjoining owner or occupier.*

Neighbour letters were sent notifying the proposed development.

The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include—

assessments of impacts or risks;

statements setting out how impacts or risks are to be mitigated; or

details of proposed building or other operations.

Additional information was sought and provided in relation to daylight considerations. This has been provided.

The local planning authority must, when determining an application—

take into account any representations made to them as a result of any consultation under sub-paragraphs (5) or (6) and any notice given under sub-paragraph (8);

No representations were received from neighbouring residents following consultation via notice served under sub-paragraph (8).

have regard to the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government in February 2019(3), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; and;

Case law has established that the local planning authority can only have regard to matters relevant to the subject matter of the prior approval. The following matters are considered relevant to the determination of this notification:

Affordable Housing - Paragraph 65 of the NPPF (2024) states that Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). In this respect, notwithstanding location within a rural area, it is not a 'designated rural area' as defined by the NPPF and therefore, affordable housing should not be sought.

Other matters: - There are no other particular aspects of the NPPF that would be able to be considered relevant to the subject matter of the prior notification application.

The Conservation of Habitats and Species Regulations 2017

Thames Basin Heath Special Protection Area: - The provisions of the Habitat Regulations must be followed within a prior approval application. Section 75 to 78 of these Regs (The Conservation of Habitats and Species Regulations 2017) set out the process for general development orders (including prior approval).

Regulation 75 of the act states:

75— It is a condition of any planning permission granted by a general development order made on or after 30th November 2017, that development which—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 77 (approval of local planning authority).

Regulation 77 of the act states:

General development orders: approval of local planning authority

77.—(1) An application to the local planning authority for approval, as mentioned in regulation 75, must—

(a) give details of the development which is intended to be carried out; and

(b) be accompanied by—

(i) a copy of any relevant notification by the appropriate nature conservation body under regulation 76; and

(ii) any fee required to be paid.

(2) For the purposes of its consideration of the application the local planning authority must assume that the development is likely to have a relevant effect.

(3) The authority must send a copy of the application to the appropriate nature conservation body and must take account of any representations made by it.

(4) If in its representations the appropriate nature conservation body states its opinion that the development is not likely to have a relevant effect, the local planning authority must send a copy of the representations to the applicant.

(5) The sending of the copy of the representations to the applicant under paragraph (4) has the same effect as a notification by the appropriate nature conservation body of its opinion under regulation 76(4).

(6) In any other case in which the application has been sent to the appropriate nature conservation body, the local planning authority must, taking account of any representations made by the appropriate nature conservation body, make an appropriate assessment of the implications of the development for the European site or European offshore marine site in view of that site's conservation objectives.

(7) In the light of the conclusions of the assessment the local planning authority may approve the development only after having ascertained that it will not adversely affect the integrity of the site.

The application site is within 5km of the Special Protection Area and the proposal is for five residential units. Appropriate mitigation must be secured via planning obligation for both SANG and SAMN contributions. This is appended as a pre-commencement informative requiring the applicant to engage in a separate S106 legal agreement with the council prior to commencement. Please refer to the attached appropriate assessment.

Whilst it is noted that WBC Ecology requested additional information concerning ecological enhancements, and bird/bat mitigation, these are protected under separate legislation. Accordingly, one further informative has been added to the decision notice to ensure that the applicant is aware of the relevant laws and regulations set out in the Wildlife and Countryside Act 190 and the Conservation of Habitats and Species Regulations 2017 regarding protected species and their habitats.

in relation to the contamination risks on the site—

determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of

the Environmental Protection Act 1990, and in doing so have regard to the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012(11), and if they determine that the site will be contaminated land, refuse to give prior approval.

Discussion regarding the potential contamination of the site is contained in Part Q.2(1) (c) and Q.2(2)(9) above.

Conclusion:

With the above in mind, the proposal complies with the criteria of Class Q, Part 3 Schedule 2 of the General Permitted Development Order 2015 (as amended) and is accordingly recommended for approval subject to the imposition of conditions.

The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. 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.

RECOMMENDATION

Conditions agreed:	Not required
Recommendation:	Approval – Prior Approval Available (subject to conditions and S106)
Date:	12 February 2025
Earliest date for decision:	4 January 2025

Recommendation agreed by: (Authorised Officer)	<i>MC</i>
Date:	12.02.2025

The Conservation of Habitats and Species Regulations 2017

Screening Assessment and Appropriate Assessment

In the light of the “Sweetman Judgement” (People Over Wind and Sweetman v Coillte Teoranta, April 2018), the comments below comprise an Appropriate Assessment which includes advice on necessary avoidance and mitigation measures which is consistent with

the advice provided to the Planning Inspectorate on such matters.

Summary of Response

WBC, in consultation with Natural England, has formed the view that any net increase in residential development between 400m and 5km straight-line distance from the Thames Basin Heath Special Protection Area (SPA) is likely to have a significant effect on the integrity of the SPA, either alone or in-combination with other plans or projects. An Appropriate Assessment has been carried out which includes regard to mitigation requirements.

This site is located approximately **5 km** (measured from the access road to the application site) from the boundary of the SPA and therefore is likely to result in an adverse effect on the SPA, unless it is carried out together with appropriate avoidance and mitigation measures.

On commencement of the proposed development, a contribution (calculated on a per-bedroom basis) is to be paid to Wokingham Borough Council (WBC) towards the cost of measures to avoid and mitigate against the effect upon the Thames Basin Heaths SPA, as set out in WBC's Infrastructure Delivery Contributions Supplementary Planning Document (SPD).

The strategy is for relevant developments to make financial contributions towards the provision of Suitable Alternative Natural Greenspaces (SANGs) in perpetuity as an alternative recreational location to the SPA and financial contributions towards Strategic Access Management and Monitoring (SAMM) measures.

In this instance, the proposed development would result in a net increase of 1 no 1 bedroom dwelling, 2 no 2 bedroom dwellings and 2 no 3 bedroom dwellings within 5km of the SPA which results in a total SANG contribution of £11,049.02.

The proposed development is required to make a contribution towards Strategic Access Management and Monitoring (SAMM) which is also calculated on a per bedroom basis. Taking account of the per bedroom contributions this results in a total SAMM contribution of £4,215.

The total SPA related financial contribution for this proposal is £15,264.02. The applicant **must agree** to enter into a S106 agreement to secure this contribution prior to occupation of each dwelling. Subject to the completion of the S106 agreement, the proposal would not lead to an adverse effect on the integrity of the SPA and would comply with SEP Saved Policy NRM6, policy CP8 of the Core Strategy, and the NPPF. This will be engaged in outside of the prior approval process in advance of commencement. Failure to engage within this S106 legal agreement will not permit the development described under class Q.

1. The Conservation of Habitats and Species Regulations (2017) as amended

In accordance with The Conservation of Habitats and Species Regulations (2017) as amended, Regulation 63, a competent authority (in this case Wokingham Borough Council

(WBC)), before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- a. is likely to have a significant effect on a European site...(either alone or in combination with other plans or projects), and
- b. is not directly connected with or necessary to the management of that site.

must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives.

A person applying for any such consent, permission or other authorisation must provide such information as WBC may reasonably require for the purposes of the assessment or to enable it to determine whether an appropriate assessment is required.

WBC must for the purposes of the assessment consult Natural England (NE) and have regard to any representations made by that body. It must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate. In the light of the conclusions of the assessment, and subject to Regulation 64 (Considerations of overriding public interest), WBC may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

In considering whether a plan or project will adversely affect the integrity of the site, WBC must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

2. Stage 1 Screening for Likely Significant Effects

WBC accepts that this proposal is a 'plan or project' which is not directly connected with or necessary to the management of a European Site. The Thames Basin Heaths Special Protection Area (SPA) is a European designated site which affects the borough, and WBC must ensure that development does not result in an adverse impact on the SPA. The potential adverse effects on the integrity of the SPA include recreational activities from inside the SPA and air pollution from inside and outside the SPA.

At this stage WBC cannot rule out 'likely significance effects' on the SPA (alone or in combination with other plans or projects) because the proposal could undermine the Conservation Objectives of these sites. This is because the proposal lies within **5 km** of the SPA and:

- represents a net increase in dwellings within 400m - 5km of the Thames Basin Heaths Special Protection Area (SPA) which will lead to an increase in local population and a potential increase in recreational activity on the SPA

As the 'likely significance effects' cannot be ruled out at this stage an Appropriate Assessment must be undertaken.

3. Stage 2 Appropriate Assessment

Based on the information proposed by the applicant, WBC must decide whether or not an adverse effect on site integrity (alone or in combination with other plans or projects) can be ruled out. Mitigation may be able to be provided so that the proposal is altered to avoid or reduce impacts.

The following policies and guidance set out WBC's approach to relevant avoidance and mitigation measures which have been agreed with Natural England. For the majority of housing developments this will comprise the provision of (or contribution towards) Suitable Alternative Natural Greenspace (SANG) and a contribution towards the Strategic Access Management and Monitoring (SAMM) Project. The financial contributions towards SANG would be either through an obligation in a s106 agreement that requires WBC to allocate an appropriate amount of the development CIL receipt towards the provision of SANG, or through an obligation in an agreement under s111 of the Local Government Act, that requires the developer to make an appropriate financial contribution towards the provision of SANG (to be used in the event that the developer successfully seeks CIL relief). Developers will be required to secure an appropriate financial contribution to the SAMM project through an obligation in a s106 agreement.

For SDL development (and occasionally some other larger non SDL developments) within 5km of the SPA, SANG is required at a minimum of 8 ha per 1,000 new residents, constructed and delivered to Natural England's quality and quantity standards and a contribution towards pan SPA access management and monitoring (as advised by the Thames Basin Heaths Joint Strategic Partnership Board). For SDL development (and occasionally some other larger non SDL developments) between 5 and 7km, the proposals will need to be individually assessed but it is likely that SANG will be required on site in line with Natural England's quality and quantity standards, although the exact requirement will be agreed having regard to evidence supplied.

a. Policies and Guidance

For this proposal the following guidance and policies apply:

- South East Plan (May 2009) Policy NRM6 (Thames Basin Heaths Special Protection Area)
<http://webarchive.nationalarchives.gov.uk/20100528160926/http://www.gos.gov.uk/gos/e/planning/regionalPlanning/815640/>
- Wokingham Borough Core Strategy (2010) Policy CP8 (Thames Basin Heaths Special Protection Area) sets out the approach WBC will take in order to protect the TBH SPA
<https://www.wokingham.gov.uk/EasySiteWeb/GatewayLink.aspx?allId=268860>
- Wokingham Borough Core Strategy (2010) Policy CP7 (Biodiversity) sets out the approach WBC will take in order to protect national and international nature

conservation sites

<https://www.wokingham.gov.uk/EasySiteWeb/GatewayLink.aspx?alld=268860>

- Wokingham Borough Managing Development Delivery Local Plan (2014) Policy TB23 (Biodiversity and Development)
<https://www.wokingham.gov.uk/EasySiteWeb/GatewayLink.aspx?alld=269993>
- Infrastructure Delivery and Contributions SPD (2011)
<http://www.wokingham.gov.uk/EasySiteWeb/GatewayLink.aspx?alld=193415>

The project as proposed would not adversely impact on the integrity of the SPA if avoidance and mitigation measures are provided as stipulated by these policies and guidance.

b. SPA Avoidance and Mitigation Measures

i) The provision of Suitable Alternative Natural Greenspace (SANG) and its ongoing maintenance in perpetuity.

In accordance with the development plan, the proposed development will be required to provide alternative land to attract new residents away from the SPA. The term given to this alternative land is Suitable Alternative Natural Greenspace (SANG).

As this development is not part of an SDL, the developer may make a payment contribution towards strategic SANGs in line with schedule below (most likely this will be at Rooks Nest Wood SANG although it is subject to SANGs capacity in the right location within Wokingham borough). An occupation restriction will be included in the Section 106 Agreement in order to ensure that the contribution has been made prior to occupation of the dwellings. This gives the certainty required to satisfy the Habitats Regulations in accordance with South East Plan Policy NRM6 (iii) and Core Strategy Policy CP8

The development will result in a net increase of **5 no dwellings**, broken down as follows: **1 no 1 bedroom dwellings, 2 no 2 bedroom dwellings and 2 no 3 bedroom dwellings**. The level of SANG payments are set out as follows:

No. of bedrooms	SANG Contribution 5km	Aggregate SANG Contribution
1 bedroom	£1,567.98	£1,567.98
2 bedrooms	£2,049.59	£4099.18
3 bedrooms	£2,690.93	£5,381.86
Total SANG Contribution		£11,049.02

ii. Strategic Access Management and Monitoring (SAMM) Contribution

The proposed development will also be required to make a contribution towards Strategic Access Management and Monitoring (SAMM). This project funds strategic visitor access management measures on the SPA to mitigate the effects of new development on it.

From 1st April 2022 SAMM contributions have been updated across the 11 Local Authorities affected by the Thames Basin Heaths Special Protection Area. Following engagement with Natural England, the Joint Strategic Partnership Board agreed this change is necessary to ensure sufficient income is raised to cover the costs of the SAMM project in perpetuity. Without this change the SAMM project would be at risk of being unable to deliver the objectives of the SAMM project, and therefore secure positive outcomes for the SPA

The level of contributions are calculated on a per bedroom basis. The application for this development is for 1 no 1 bedroom dwellings, 2 no 2 bedroom dwellings and 2 no 3 bedroom dwellings. The level of SAMM payments are calculated as follows:

No. of bedrooms	SAMM Contribution 5km	Aggregate SAMM Contribution
1 bedroom	£563.00	£563.00
2 bedroom	£784.00	£1,568.00
3 bedrooms	£1042.00	£2,084.00
Total SAMM Contribution		£4,215

Prior to the permission being granted the applicant must enter into a Section 106 Agreement based upon the above measures.

4. Conclusion

An Appropriate Assessment has been carried out for this development in accordance with the Habitats Regulations 2017. Without any appropriate avoidance and mitigation measures the Appropriate Assessment concludes that the development is likely to have a significant effect upon the integrity of the SPA with the result that WBC would be required to refuse a planning application.

Provided that the applicant is prepared to make a financial contribution (see above) towards the costs of SPA avoidance and mitigation measures, the application will be in accordance with the SPA mitigation requirements as set out in the relevant policies above.

WBC is convinced, following consultation with Natural England, that the above measures will prevent an adverse effect on the integrity of the SPA. Pursuant to Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC) and Regulation 63(5) of the Conservation of

Habitats and Species Regulations (2017) as amended, and permission may be granted.

If the applicant does not agree with the above mitigation and does not enter into a Section 106 Agreement to secure the measures, then the application must be refused using the following reason for refusal.

5. Example Reason for Refusal

In the absence of a planning obligation to secure suitable avoidance and mitigation measures and access management monitoring arrangements, in terms that are satisfactory to the Local Planning Authority (LPA), the LPA is unable to satisfy itself that the proposals include adequate mitigation measures to prevent the proposed development from having an adverse effect on the integrity of the Thames Basin Heaths SPA, in line with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 as amended and Article 6(3) of Directive 92/43/EEC. The proposal would be contrary to Policy NRM6 of the South East Plan, Policies CP8 and CP4 of the Core Strategy.