29 September 2021

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| By email: swatts@ridge.co.uk  | **Development & Regulation**Council OfficesMarket Street, NewburyBerkshire, RG14 5LD**Our Ref:** 21/00134/PREAPP **Contact Centre:** 01635 519111**Email:** michael.butler@westberks.gov.uk |

Dear Mr Watts

**Planning pre-application advice**

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| **Reference:** | 21/00134/PREAPP  |
| **Site:** | Land between Mortimer and Burghfield. |
| **Proposal:** | Proposed construction of new footway and cycleway combined.  |

Thank you for submitting the above request for Stage 1 pre-application advice. Stage 1 (this letter) comprises a preliminary assessment of the planning merits of the proposal, identifying the key issues likely to be raised by the proposal, and where possible advice on the possible outcome of any formal planning application. The annex provides procedural advice.

**Planning policy**

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan for West Berkshire comprises a number of documents which together provide a plan for the future development of the district, against which development proposals are to be assessed.

The relevant policies from the development plan documents are set out below. You can download copies of these documents from [www.westberks.gov.uk/planningpolicy](http://www.westberks.gov.uk/planningpolicy).

West Berkshire Core Strategy 2006-2026

Policies: ADPP1, ADPP6, CS5, CS13, CS14, CS17, CS18, CS19.

Stratfield Mortimer Neighbourhood Development Plan

List of projects in 12.4

The following documents are key material considerations that are of particular relevance to this proposed development:

* National Planning Policy Framework (NPPF)
* Planning Practice Guidance (PPG)
* Local Transport Plan for West Berkshire 2011-2026

**Site location, designations and constraints**

As you correctly note in the appraisal there are a host of constraints which apply to the proposed route designation. Firstly the site obviously lies in the open countryside in policy terms where new development is generally restricted subject to the advice in policy ADPP1. However, important infrastructure such as this is supported. I would place the provision of this route in such a policy remit. The other principal constraint is biodiversity and of course the trees across the route, which will be affected by the new cycleway. The land is part of the Council’s Common Land designation but this is more of a legal/ownership constraint than a planning policy one. The adopted highway boundary is also a physical constraint and I have detailed comments below for you.

**Principle of development**

The most important policies for determining whether the principle of development is acceptable are Policies ADPP1, ADPP6 and CS13 of the Core Strategy, and the Stratfield Mortimer Neighbourhood Development Plan. The Core Strategy includes a Spatial Strategy (ADPP1 and ADPP6) that provides a broad indication of the overall scale of development in the district, applying the principles of sustainable development, and based on defined spatial areas and a settlement hierarchy. Policy CS13 relates specifically to transport.

According to Policy ADPP1, most development will be within or adjacent to the settlements in the hierarchy, and related to their transport accessibility and level of services. The urban areas will be the focused for most development. The scale and density of development will be related to the site’s accessibility, character and surroundings. Burghfield Common and Mortimer are both classified as “rural service centres” in the District Settlement Hierarchy of Policy ADPP1, which is a second tier settlement designated for having a range of services and reasonable public transport provision. The policy states that there are opportunities to strengthen its role in meeting requirements of surrounding communities. The land between the two settlements falls outside the defined settlement boundary. According to Policy ADPP1, only appropriate limited development in the countryside (outside of the defined settlement boundaries) will be allowed, focused on addressing identified needs and maintaining a strong rural economy.

The proposed development is located within the East Kennet Valley, the name given to the rural south-east of the district that lies east of Thatcham and outside of the AONB. Policy ADPP6 is the spatial strategy for the East Kennet Valley. According to the policy, the character of all the settlements in this area will be conserved and enhanced by ensuring that any development responds positively to the local context. Development in the open countryside will be strictly controlled. With respect to accessibility, Policy ADPP6 states that, through partnership working, opportunities to improve public transport links between the villages and nearby towns including Newbury, Thatcham and Reading will be sought, and the area will benefit from the planned electrification of the London to Newbury railway line. Opportunities for the improvement of cycle and pedestrian routes between Burghfield Common and Mortimer; between Mortimer railway station, and between the schools in Burghfield will be explored in partnership with landowners, Network Rail and education providers.

According to Policy CS13, development that generates a transport impact will be required to (amongst others) improve travel choice and facilitate sustainable travel particularly within, between and to main urban areas and rural service centres.

The Stratfield Mortimer Neighbourhood Development Plan also forms part of the statutory development plan. Under 12.4 a list of projects is given, including “provision of footpath and cycleway connecting Mortimer and Burghfield”.

Whilst it does not form part of the statutory development plan for planning purposes, the Council’s Local Transport Plan is an important material consideration. It specifically promotes connectively between settlements in the interests of sustainability, particularly by means of walking and cycling. It must, however, be safe to do so.

Taking into account the above development plan policies and other material considerations, the principle of the new combined cycleway and footpath is considered acceptable, and it is likely that any such proposals will, in principle, be considered an appropriate limited form of development that is permissible in the open countryside under Policy ADPP1.

**Ecology and biodiversity**

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. In this instance it is considered that there is a reasonable likelihood of protected species being present and affected by the development. As such, the Council will require an Ecological Impact assessment (EcIA) including hedgerows survey. These may well find that a statutory Habitat Regulations Assessment is required if there is impacts on the hedgerows and/or other priority habitats by the proposals. I advise accordingly that any application be accompanied by such an assessment.

**Highways**

From a Highways’ perspective, the western roadside route may be desirable given that it would be adjacent to a road and therefore visibility of users would benefit all and perhaps lead to a greater sense of security over and above the other proposals whereby the routes go through woodland. Any new footway/cycleway would need to demonstrate conformity with LTN1/20 (Table 5-2) which specifies a desirable width of 3m but could be reduced down to an absolute minimum of 2m where the route would encounter constraints.  There would be a requirement to have a new kerb line throughout so as to raise the footway above the existing carriageway and this would also result in the need for a new surface water drainage system.

*Land ownership*

The available highway land adjacent to the current carriageway (Reading Road) is relatively narrow and therefore not wide enough to accommodate the entire width of new footway/cycleway solely within the highway boundary. Therefore the land beyond the highway boundary is a mix of Wokefield Common and privately owned by Englefield Estate, which will be required in order to undertake the footway/cycleway. Conditions associated with a footway/cycleway on Common Land state that the surface must be constructed of an unbound material. There are also a significant number of trees that would need to be removed which currently reside within Common/private land and there are constraints associated with their removal.

*Drainage and ground conditions*

An existing ditch is present in the northern section and behind this is an embankment. In order to create the new footway/cycleway the existing ditch would need to be filled in and then recut behind any new footway. New gullies constructed on the edge of the carriageway to direct surface water to the new ditch will also be required. As some of the area is Common Land there will be further constraints as to whether a new ditch would be possible. If a retaining structure is not feasible/possible to retain the embankment then the footway may need to be directed over to east side in the vicinity of Lockram Brook.

As the route proceeds south there are areas up to Longmoor Lane where the adjacent land is undulating and at points quite a lot higher than the carriageway and at the back of any new footway/cycleway there would likely be the requirement for some form of localised retaining structure. Again, if a retaining structure is not feasible/possible then it may be prudent to place the footway on the east side in this section.

From Longmoor Lane to St Catherine’s Hill the route is flat but a ditch reappears and the resolution to this issue is as previously mentioned.

*Utility locations*

The following utility apparatus is present within the proposed scheme area and may require alteration if the scheme progresses:

* BT – Present under the western verge are BT apparatus throughout the entire length of Reading Road as well as some overhead poles. The ducting underground may be sufficiently deep not to be affected but the poles will certainly need to be moved to facilitate a footway/cycleway.
* Thames Water – Located in the northern section are two trunk water mains which appear predominantly in the carriageway and then divert in to the western verge before proceeding to the water tower. South of this area, one trunk main is present which diverts from the western verge over to the eastern verge just north of property Five Oaken. If any work is required to these mains the cost is likely to be significant.
* ESP Gas – There is both a medium and low pressure gas main within the verge adjacent to the carriageway on the bend from Reading Road and Victoria Road. The main then diverts in to the carriageway east along Victoria Road. There may be a requirement to lower the ESP apparatus but hopefully it would be at a sufficient depth to not be affected.
* SSE Electric – A high voltage cable/s is/are present from property Five Oaken where it crosses Reading Road from the west and then continues within the eastern verge through to College Piece in Mortimer. The road crossing HV main may need lowering but should be low enough to not be affected.
* Gigaclear – As per the SSE HV main, Gigaclear is present from property Five Oaken where it crosses Reading Road from the west and then continues within the eastern verge through to Mortimer. Given previous experience, this cable is likely to be shallow in the ground and require lowering.

Trial holes would be required to ascertain exact locations and depths of all utility services underground. If any of the utilities require alteration/diversion then there will be a cost associated with each. The budget proposal of £450k may not be sufficient if any of the utility services listed above require diverting or lowering.

**Trees protection**

It has been identified that existing trees may be affected by the development, therefore the following information should therefore be provided to support any formal application:

* Tree survey in accordance with BS5837:2012
* Tree constraints plan
* Arboricultural implications assessment
* Details of proposed tree protective fencing, including type, layout (on a plan), informed by the above assessments
* Indicative landscaping proposals

The tree officer has responded as follows in more detail:

Although the proposed routes pass through woodland, no Arboricultural Impact Assessment (AIA) in accordance with British Standard BS 5837:2012 Trees in Relation to Design, Demolition and Construction, Recommendations is included within the paperwork. I would strongly recommend one is undertaken at the earliest opportunity.

In very broad terms the southern part of the proposed route passes over private land used for commercial forestry. My understanding is that the blocks of trees there, will be cropped and restocked, from time to time. Generally it is seen as desirable in forestry to retain the boundary trees, as they offer both visual screening and protection for young stock. The boundary trees are highly visible from the road and generally more mature than the interior blocks of tree crop - i.e. the boundary trees have high public amenity value. They also have high biodiversity value and make significant contributions to carbon sequestration. Policy CS18 refers.

With that in mind, assessments of where the proposed route intersects the Root Protection Areas (RPAs) of the boundary trees should be undertaken within an AIA. This will inform the proposed route and its possible surface construction. A no-dig cellular confinement system may be required. Where a bound surface is proposed in any RPAs, it may be required to sit on a no-dig surface and be permeable. An AIA would inform all of these points.

An AIA would also assess the value of trees which may be impacted by the proposed bridge/ culvert construction. It would make recommendations on access, tree protection and ground protection. It is important that any high value over-mature or veteran tree are not impacted in any way by machinery or construction methodologies.

It is my understanding that the Common is managed for its habitat value. Where the proposed route passes over Common land, there are a number of mature trees of considerable ecological value. Care will be required to avoid harm to over-mature and veteran trees. In my view it would be desirable to avoid the RPAs of any such trees altogether even if it meant deflecting the route of the path somewhat. Again an AIA would inform the route and appropriate construction. The findings of any Ecological Assessment of the trees here, should also be born in mind.

**Public health**

The Council’s Public Health team have provided the following feedback:

* My main concern is with the lack of additional lighting given that there is a decent amount of woodland area, especially in the first suggested route which seems to be the most favoured. This is not promoting safe travel or inclusivity as many people would not feel able to make use of the new route when dark. This may not be such an issue if the expectation is for the route to be used mainly for leisure, however if the expected use is e.g. commuting to and from work, then it will have limited use especially over winter. I understand that we are keen to maintain natural characteristics of rural areas, which includes keeping light pollution to a minimum. However, if there is a way of doing this while also focusing on routes being well lit and accessible for everyone, I think Public Health would look more favourably on this as we are certainly very keen to increase physical activity and active travel.
* There is a comment about signage being needed, but ensuring that it is appropriate for the environment. Could this please be clarified?
* Slower speed limits should be considered at all points where proposed route crosses road.
* Agree that third route option probably least preferable due to steep incline and need to cross brooks.

**Archaeology**

As it appears that mostly extant paths and tracks are being used, and that no deep foundations would be required for any enlargement or diversion of these routes, the Council’s Archaeologist does not consider there is likely to be a huge impact. There are a few features in this area of coniferous plantation, notably Holden's Firs Barrow cemetery but this is on the other side of the road.

**Conclusion on planning merits**

The proposed development is clearly supported by the relevant planning policies. It is therefore necessary to find a route and design that avoids or minimises any environmental harm, and balancing this against finding a route that is safe and accessible to future users. The decision as to which route to progress will depend heavily on the findings of the additional work highlighted above. At this stage, based on the information available, I am in a position to recommend any particular route with sufficient confidence. Nevertheless, I hope that this feedback provides a way forward to progress this project.

**Disclaimer and scope of response**

Whilst our pre-application advice is made in good faith and every effort is made to ensure it is accurate, please note that these preliminary comments are made at officer level only, based on the professional judgement of officers and the information that has been provided at this stage. These comments are made without prejudice to any future comments, discussions, submissions or decisions, as there is no way that we can prejudge the final outcome of any application that may be submitted. The comments on these issues have been made without consideration of any representations of interested parties that may be received during the consideration of any forthcoming application. Elected members of the planning committee are also not necessarily bound to follow the advice of planning officers, particularly where matters of planning judgement are to be exercised. These comments are made in light of the current planning policy position. Please be aware that there may be subsequent changes to relevant policies, regulatory controls or guidance, which would need to be taken into account if they occur before a formal decision is made.

I have undertaken a preliminary site visit in preparing this response. The application site would of course be visited by the allocated planning officer on any forthcoming application. This response is also based on the following submissions:

* Scoping Assessment
* Route Appraisal Plan.

The following internal consultations have been undertaken:

* Highways Officer
* Tree Officer
* Ecology Officer
* Public Rights of Way (no comments received at time of writing)
* Archaeological Officer
* Public Health Officer

**Making an application**

You have requested planning pre-application advice, which is an optional and informal service offered by the Council to identify the main issues which are likely to be raised in a formal submission. This letter does not constitute a formal decision of the Council. If you wish to proceed with the development, you will need to make a formal application. You can apply online at [www.planningportal.gov.uk](http://www.planningportal.gov.uk). Alternatively, all application forms are available to download from the Council’s website ([www.westberks.gov.uk/planning](http://www.westberks.gov.uk/planning)). The application forms are accompanied by guidance notes which explain what information is required to be submitted. Please also refer to the published Local List for details of possible submission requirements. In addition to the general requirements of plans and documents, at this stage it appears that a formal application for the proposed development would also need to be accompanied by a submission of the following supporting documents:

* Arboricultural Impact Assessment as detailed above
* Ecological Impact Assessment as detailed above
* Highways Assessment in terms of technical/safety/utility issues to be overcome
* Stage 1 Safety Audit
* Lighting Assessment
* Design and Access Statement

I trust you find the above information helpful. If following receipt of this advice you wish to request a meeting, you can apply for Stage 2 Pre-Application Advice. To arrange a meeting you should contact the case officer. We will aim to offer a date, or to advise you if we feel a meeting would have no benefit, within 10 working days of receiving the Stage 2 request. The fee for a meeting will be determined in due course.

I hope you find the above helpful.

Yours sincerely

**Michael Butler**

**Principal Planning Officer**

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**ANNEX – PROCEDURAL ADVICE**

This annex provides procedural advice which may be of assistance should you proceed to submit a formal application. It is given without prejudice to the pre-application advice on the merits of the proposal.

**Community engagement**

The Framework strongly encourages applicants to engage with the local community before submitting their applications. Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably. The Parish Council will of course be familiar with the scheme, but Burghfield Parish will need to be engaged of course. It is also advisable to discuss the proposals with any neighbours which may be affected by the development.

**EIA**

Given the scale and complexity of the proposal, and depending upon the environmental constraints identified through the supporting surveys, it appears that the proposal may constitute ‘EIA development’ under the terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. I therefore recommend that you request a screening opinion from the Local Planning Authority to ascertain whether an Environmental Statement would be required before submitting any planning application.

**Plans and drawings**

As a minimum, applicants will need to submit a ‘location plan’ that shows the application site in relation to the surrounding area. Additional plans and drawings will in most cases be necessary to describe the proposed development, as required by the legislation (see [article 7(1)(c)(ii) of the Town and Country Planning (Development Management Procedure (England) (Order) 2015](http://www.legislation.gov.uk/uksi/2015/595/article/7/made). These may be requested by the local planning authority through their local list of information requirements, where it is reasonable to do so. The Council’s local list is available from this webpage: <http://info.westberks.gov.uk/planningforms>

Any plans or drawings must be drawn to an identified scale, and in the case of plans, must show the direction of north. Although not a requirement of legislation, the inclusion of a linear scale bar is also useful, particularly in the case of electronic submissions. **Please note that any “do not scale” or similar disclaimers will not be accepted and may delay validating your application.**

A location plan should be based on an up-to-date map. The scale should typically be 1:1250 or 1:2500, but wherever possible the plan should be scaled to fit onto A4 or A3 size paper. A location plan should identify sufficient roads and/or buildings on land adjoining the application site to ensure that the exact location of the application site is clear.

The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (for example, land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.

**Ownership and validation**

A certificate which applicants must complete that provides certain details about the ownership of the application site and confirms that an appropriate notice has been served on any other owners (and agricultural tenants). The forms of notice are in [Schedule 2 to the Town and Country Planning (Development Management Procedure (England) (Order) 2015](http://www.legislation.gov.uk/uksi/2015/595/schedule/2/made). The ownership certificates are at the end of all application forms.

An application is not valid, and therefore cannot be determined by the local planning authority, unless the relevant certificate has been completed. It is an offence to complete a false or misleading certificate, either knowingly or recklessly, with a maximum fine of up to £5,000.

The ownership certificates ensure that the owners of land, tenants with at least 7 years to run on their tenancies, and all agricultural tenants are informed that a planning application is being made. In order to validate an application for planning permission, local authorities have to be in possession of one of the following:

* Certificate A: signed by or on behalf of the applicant stating that up to 21 days prior to the submission of the application the applicant was the owner of the land.
* Certificate B: signed by or on behalf of the applicant indicating that notice has been served on the owner of the land. The certificate should include; (i) the names of the persons, (ii) the addresses at which notice of the application was given to them respectively, and (iii) the date of the service of the notice.
* Certificate C: stating that not all owners’ names and addresses are known to an applicant after a process of attempting to identify them including the publishing of the notice in a local newspaper.
* Certificate D: stating that an applicant, after taking all reasonable steps to identify the owner of the land, has been unable to ascertain any owner’s names.

It should be noted that the legislation is explicit that informing the owner of land about an application by means of electronic communications does not constitute giving “requisite notice”. Copies of the standard notice can be downloaded from the Council’s website: <http://info.westberks.gov.uk/planningforms>

Please note that all owners of land within the application site (outlined in red) must be notified of the application in the prescribed manner before submission, unless the applicant is the sole land owner. This could include serving notice on personal/business partners, and/or businesses owned by the applicant that are not named as applicants.

If the site incorporates any land under the ownership of the local highways authority, requisite notice should be served on the Head of Highways & Transport, West Berkshire Council, Market Street, Newbury, RG14 5LD. If the site incorporates any unregistered land, then all reasonable steps to identify the owner of the land must have been carried out, and Certificate D completed accordingly.

This advice is given because many planning applications are found to be invalid, often late in the application process, because the applicant has failed to serve the correct notice on any other land owners. In such an instance the application would be rendered invalid as the certification requirements were not complied with, and therefore the application would be returned with no further action to be taken by the authority. A fresh, valid application, and certification, would then need to be submitted. It is therefore strongly recommended that any notification requirements and the ownership certificates are carefully completed before submitting the application. It may be advisable in some cases to undertake a Land Registry search of the application site to ensure that the correct notice and certification is undertaken before making an application.

**Delegated authority**

Most applications are determined by planning officers under ‘delegated authority’ from the Council. However, in some instances applications will be referred to the area planning committee for a decision (e.g. level of objection, call-in by local councillor). The planning committee consists of elected local councillors. In the event that your application must be determined by the area planning committee, you will be notified and given full details of the arrangements, including an opportunity to make representations direct to the committee.