

Lochailort Newbury Ltd
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London
SW1Y 6EE

Applicant:
Lochailort Newbury Ltd

PART I - DETAILS OF APPLICATION

Date of Application

8th September 2023

Application No.

23/02094/FULMAJ

THE PROPOSAL AND LOCATION OF THE DEVELOPMENT:

Full planning permission for the redevelopment of the Kennet Centre comprising the partial demolition of the existing building on site and the development of new residential dwellings (Use Class C3) and residents ancillary facilities; commercial, business and service floorspace including office (Class E (a, b, c, d, e, f, and g)); access, parking, and cycle parking; landscaping and open space; sustainable energy installations; associated works, and alterations to the retained Vue Cinema and multi storey car park.

The Mall, The Kennet Centre, Newbury, RG14 5EN

PART II - DECISION

In pursuance of its powers under the Town and Country Planning Act 1990, West Berkshire District Council REFUSES planning permission for the development referred to in Part I in accordance with the submitted application form and plans, for the following reason(s):-

1. The proposal would introduce an overpowering and dominant feature within the town centre. Although it is recognised that an industrial use previously occupied this site, the Eagle Works buildings were generally low-rise, with a height of no more than three storeys. The scale, height, and massing of the proposed development would significantly alter the character of Newbury's historic core. It would appear excessively tall and imposing in key views within the town centre, creating an oppressive backdrop to several listed buildings. The development would fail to provide a coherent continuation of the existing townscape and would not reflect the small-scale market town character of Newbury. As a result, the proposal would harm the significance of the conservation area and the setting of nearby listed buildings. Although the harm would be less than substantial under paragraph 215, it remains tangible, serious, and must be given considerable weight.

Paragraph 215 of the National Planning Policy Framework (NPPF) states that where harm to a designated heritage asset is considered less than substantial, that harm should be weighed against the public benefits of the proposal. While the proposal offers some public benefits, they are not enough, either individually or together, to outweigh

the harm identified to the significance of the conservation area and the setting of nearby listed buildings.

At the time of this decision, the Council cannot demonstrate a five-year housing land supply, meaning paragraph 11d of the NPPF applies. This states that planning permission should be granted unless policies in the NPPF that protect areas or assets of particular importance provide a strong reason to refuse the development. Policies concerning designated heritage assets are such policies (footnote 7). In this case, since the public benefits of the proposal do not outweigh the less than substantial harm caused, there is a clear reason for refusal. Consequently, the 'tilted balance' outlined in paragraph 11d) ii is not engaged, and the development would not benefit from the presumption in favour of sustainable development as per paragraph 11 of the NPPF.

The proposal conflicts with the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990; the conservation objectives of Section 16 of the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, the Newbury Conservation Area Appraisal and Management Plan adopted December 2024, and the Newbury Town Design Statement 2018. These policies amongst other things seek to enhance local distinctiveness and conserve and enhance the historic environment.

2. The layout does not comply to the council's car parking standards and does not provide adequate car parking to enable use by both residents and visitors to the town centre, with the applicant failing to provide adequate mitigation to allow for when the proposed car park is full. This could result in on street parking and additional traffic movements on the highway network, adversely affecting road safety and the flow of traffic. This would be contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026, Policy P1 of the Housing Site Allocations DPD 2017 and Policy ECON5 The West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).
3. The application fails to provide appropriate planning obligations to deliver the necessary off-site infrastructure, namely improvement to local highways network, travel plan, public open space and primary healthcare facilities in the local area. In the absence of an appropriate planning obligation, the proposal is contrary to Policies CS5 and CS18 of the West Berkshire Core Strategy 2006-2026 and Policies RL.1 and RL.2 of the West Berkshire District Local Plan Saved Policies (2007), the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.
4. The application fails to provide an appropriate planning obligation to deliver affordable housing. The district has a high affordable housing need and an affordability ratio above the national average. Compliance with Core Strategy Policy C6 through the provision of affordable housing is therefore necessary to make the development acceptable. In the absence of an appropriate planning obligation, the proposal is contrary to Policy CS6 of the West Berkshire Core Strategy 2006-2026, the Planning Obligations Supplementary Planning Document, and the National Planning Policy Framework.

5. The Council's Supplementary Planning Guidance Quality Design Part 2 document notes that the following provisions should be sought for development in regard to provision of outdoor space.
- 1 and 2 bedroom flats; from 25 sq.m communal open space per unit
 - 3 or more bedroom flats; from 40 sq.m communal open space per unit

The proposed average outdoor amenity space per unit across the proposed development is 12.9 sqm. This is below the required level of the SPD

As such the proposed development does not constitute quality design due to the lack of private amenity space and would not contribute to the quality of life of future occupants by providing them with adequate space outdoors. The development is therefore contrary to Policy CS14 of the West Berkshire Core Strategy 2006-2026, the SPD Quality Design Part 2, and the National Planning Policy Framework.

6. The proposed development is situated in close proximity to The Newbury Public House, which has a rear terrace that would be overlooked by residential properties. This terrace generates noise from music and patrons attending the public house. It is anticipated that live music and the use of the terrace would result in significant noise levels within the proposed development, which could make the residential units undesirable for future occupants.

The noise is likely to impact around 100 flats in blocks B, E, and F, either because they are in close proximity to the public house or because their facades face it directly. Noise mitigation measures necessary to ensure acceptable internal living conditions would likely prevent future occupants from opening windows during periods of high noise. The outdoor amenity space near the Newbury Public House would also be subjected to high levels of noise during events and when the terrace is in use, which would detract from the quality of this space.

Therefore, the proposed development fails to meet the standards for quality design, given the adverse impacts on both internal and external amenity that the existing nighttime economy in the area would have on future residents. The development is thus contrary to Policy CS14 of the West Berkshire Core Strategy 2006-2026 and the objectives of the National Planning Policy Framework.

If you require further information on this decision please contact the Council via the Customer Call Centre on 01635 519111.

INFORMATIVE:

Decision Date :- 30th January 2025

Bob Dray
Development Manager

TOWN AND COUNTRY PLANNING ACT 1990

Notification to be sent to an applicant when a local planning authority refuse planning permission or grant it subject to conditions

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against the local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online via <https://www.gov.uk/appeal-planning-decision>.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.