

Agenda Item 62.

ITEM NO: 62

Development Management Ref No 162396	No weeks on day of committee 8/9 weeks	Parish Wokingham Without Parish	Ward Wokingham Without	Listed by: Applicant is member of WBC senior management
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Applicant: Mr and Mrs S and J Rowbotham

Location: 2 Holme Green, Easthampstead Road, Wokingham **Postcode** RG40 3AG

Proposal: Application to remove condition 6 of planning consent F/2009/0075 for the proposed erection of single storey rear extension, first floor side dormer extension and creation of porch on front elevation. Condition 6 restricts permitted development rights relating to enlargements or alterations, alterations to the roof, construction of porches and construction of enclosures or outbuildings.

Type: Section 73, variation of conditions.

PS Category: 21

Officer: Stefan Fludger

FOR CONSIDERATION BY Planning Committee on 12th October 2016
REPORT PREPARED BY Head of Development Management and Regulatory Services

SUMMARY

The application site is a two storey dwelling located on Easthampstead Road. The dwelling is semi-detached with No. 1 adjoining. The application site is within the settlement boundary. Holme Green is a collection of houses of a similar style, which are semi-detached and arranged in a formal fashion along Easthampstead Road.

This application under section 73 of the Town and Country Planning Act proposes the removal of condition number 6 of previously approved planning application F/2009/0075. This condition restricts development rights for this property for classes A, B, C, D and E, the reason for which is to safeguard the character of the area, with specific reference to the property being in the countryside. This condition is applicable because application F/2009/0075 has been part-implemented, with the approved single storey rear extension having been constructed. The proposed side dormer and porch have not been constructed.

The report concludes that a change in the material planning situation of this property (it is no longer in the countryside) means that it no longer passes the six tests which justify the inclusion of conditions and therefore it is no longer required. The application is before the committee as the owner of the property is a member of the corporate leadership team at Wokingham Borough Council.

PLANNING STATUS

- Major Development Location: Wokingham
- Strategic Development Location: South Wokingham
- Thames basin Heath Special Protection Area 5 & 7km mitigation zone
- South East Water Supply Area

- Farnborough Aerodrome consultation Zone.
- Heathrow Aerodrome safeguarding for wind turbine developments
- Green route enhancement area

RECOMMENDATION

That this application is **approved**, subject to the amendment of the decision notice as follows:

Condition 6 will be removed.

All other conditions **with the exception of condition 1.** (the development hereby permitted shall be begun before the expiration of three years from the date of this permission) of planning permission F/2009/0075 apply to this planning permission:

1. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building, unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure that the external appearance of the building is satisfactory.
Relevant policy: Wokingham District Local Plan Policy WOS3.
2. This permission is in respect of plan nos. 2667/01 received by the Local Planning Authority on 20/01/09 and 2667/02 REV D received by the Local Planning Authority on 26/02/09. The development hereby permitted shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. The bathroom window in the side elevation of the development hereby permitted shall not at any time be glazed other than with obscured glass. It shall be fixed shut, with the exception of a top hung openable fanlight and be permanently so retained thereafter.
Reason: To safeguard the residential amenities of the occupiers of neighbouring properties. Relevant policies: Wokingham District Local Plan Policy WOS3 and Supplementary Planning Guideline B2.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no additional windows or similar openings shall be constructed in the first floor level or above in the side elevation(s) of the extension hereby permitted except for any which may be shown on the approved drawing(s).
Reason: To safeguard the residential amenities of the occupiers of neighbouring properties. Relevant policies: Wokingham District Local Plan Policy WOS3 and Supplementary Planning Guideline B2.

PLANNING HISTORY

Application **14140** for the demolition of the existing garage and erection of a new garage was approved on 23/10/1980.

Application **F/2008/1314** for a single storey rear extension, first floor side dormer extension, and creation of porch roof on front elevation to number 2 Holme Green was refused on 13/08/2008. This was on the basis of the negative impact on the character of the area of the side extension in combination with the incoherent design of the front porch extension.

Application **F/2009/0075** for a single storey rear extension, first floor side dormer extension and creation of porch on front elevation was approved on 11/03/2009 after the simplification of the porch roof and amendments to the rest of the application, subject to conditions.

Certificate of lawfulness application **161756** for the proposed erection of a dormer extension to the side roof slope to the dwelling was withdrawn on 22/08/2016

Application **161764** for the proposed erection of a single storey front extension to dwelling to form entrance porch and installation of roof light into front roof slope was approved by the Planning Committee on 17/08/2016.

CONSULTATION RESPONSES

Parish/Town Council: "This is a countryside area meaning that extensions should not result in a disproportionate increase over the scale of the original dwelling. This form of condition is regularly used by the Council when extensions are permitted in countryside locations as a method of controlling future development. An applicant is always at liberty to make a planning application for extensions which can then be determined against policy. Such proposals can then be tested against Policy CP11 and the NPPF. It is noted from the application form that pre-application discussions have taken place, although no details are given. There is reference in the application to a letter of justification which does not appear to be on the public web site. This is not helpful since it might clarify the position and assist neighbours to make an informed judgement whether or not to respond. In the absence of this information it would appear therefore that the applicant is using this application as a vehicle to restore full permitted development rights.

In the absence of specific proposals to demonstrate that there will not be an adverse impact on neighbours or the character of the area in terms of resulting in a disproportionate increase in scale were these conditions to be removed, it is recommended that the application be REFUSED. In addition, to lift such conditions may well result in further such applications on other sites and also resistance from developers to imposing such conditions in the future. As such, a decision to approve may set an unwelcome precedent in terms of the Council's future approach to controlling countryside development. Suggest that the applicant submit plans and ask for it to be lifted at the same time. Or submit plans for a decision." (**Officer Note:** *Property is no longer in the countryside*)

Local Members: No comments received

Local Residents: No comments received

REPRESENTATIONS

No representations received

APPLICANTS POINTS

Summarised Below:

Condition 6 was imposed because the approved development was to occur in a rural area where the sizes of extensions to houses were restricted by planning policy. The site now falls into an SDL location and this goes against previous planning policy which sought to protect the character of rural locations.

Current policy will allow the construction of many new homes in this area, which is contrary to previous policy and therefore there is no longer a justification for removing permitted development rights and condition 6 is no longer reasonable or necessary.

PLANNING POLICY

National Policy	NPPF	National Planning Policy Framework
	NPPG	National Planning Policy Guidance
Adopted Core Strategy DPD 2010	CP1	Sustainable Development
	CP3	General Principles for Development
	CP11	Proposals Outside Development Limits (including Countryside)
Managing Development Delivery Local Plan	CC01	Presumption in Favour of Sustainable Development
	CC02	Development Limits
	CC04	Sustainable Design and Construction
Supplementary Planning Documents (SPD)	BDG	Borough Design Guide SPD

PLANNING ISSUES

Principle of Development

1. The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the Local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.
2. The site is located within the Major Development Location of Wokingham, and as such the principle of development has changed since the original planning application, when the property was located in the Countryside.
3. The application is before the committee as the applicant is a senior manager at Wokingham Borough Council.

Description of proposal

4. This application proposes the removal of condition 6 of planning application F/2009/0075. This application was for the erection of a single storey rear extension, first floor side dormer extension and front porch was approved on 11/03/2009 with conditions. This permission has been part-implemented, through the construction of the approved single storey rear extension. For this reason, the conditions on that application have come into force.
5. Condition 6 states that *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking and re-enacting that order with or without modification) no buildings, extensions or alterations permitted by Classes A, B, C, D and E of Part 1 of the Second Schedule of the 1995 order (as amended) shall be carried out.*

This condition removes permitted development rights which are listed below:

Class A – The enlargement, improvement or other alteration of a dwellinghouse.

Class B – The enlargement of a dwellinghouse consisting of an addition or alteration or alteration to its roof.

Class C – Any other alteration to the roof of a dwellinghouse.

Class D – The erection or construction of a porch outside any external door of a dwellinghouse.

Class E – The provision within the curtilage of the dwellinghouse of –

- (a) *Any building or enclosure, swimming or other pool for a purpose incidental to the enjoyment of the dwellinghouse as such or the maintenance, improvement or other alteration of such a building or enclosure; or*
- (b) *a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.*

6. The reason given for the relevant condition on the decision notice of application F/2009/0075 is as follows:

'To safeguard the character of the area. Relevant policies: Wokingham District Local Plan Policies WOS3 and WCC1 and PPS7: Sustainable Development in Rural Areas.

Impact on the Character of the Area

7. It is important to note that The Wokingham District Local Plan has since been superseded by the Core Strategy and The MDD Local Plan. PPS7 (which applied to development in rural areas) has been replaced by the NPPF. However the historic policies will be explored below in order to provide a background which explains the original reason for the attachment of this condition to the planning approval. It is also important to acknowledge the Parish Council's objection to this application; however it is evident that the comments are based on the fact that the application site is still in the Countryside, which is now not the case, as the current designation in the Local Plan is a Major development location.
8. The quoted policies in the reason must be read in conjunction with one another. WOS3 stated that development proposals must be *'...appropriate in scale of activity and character to the area in which they are located and be integrated into their local context...'* The context in the case of this dwellinghouse at the time that the application was approved is that it was outside of the development limits. For this reason, the planning application was assessed against a second policy: WCC1 Development in the Countryside, which outlined the categories of development which are allowable in the Countryside. PPS7 (now revoked) encouraged Local Planning Authorities to ensure that buildings in rural areas are of appropriate scale and design.
9. Reference to the Officers Report for F/2009/0075 also makes it clear that further Guidance was received from Supplementary Planning Advice Note B5, which suggested that a 50% volume increase should usually be the maximum amount of extension allowed in the countryside.
10. The attachment of the condition restricting further permitted development rights does not prevent further extensions or alterations entirely. However it requires an application for planning permission to be submitted for works which would normally fall under permitted development. Therefore the Local Planning Authority can retain greater control over further development in the countryside, in accordance with the relevant policies.
11. However, since the approval of that planning application, the situation of the property has changed materially in planning terms, due to the fact that it is no longer outside of the settlement boundary (in the countryside). The property now falls into a Major Development Location, as well as the South Wokingham strategic development location and therefore Countryside policies no longer apply. Due to the fact that this condition was attached in order to safeguard the character of the countryside, the previous conditions must be assessed against the six tests for planning conditions, as outlined by the governments Planning Practice Guidance (NPPG). The NPPG states that planning conditions should

only be imposed where they are:

- Necessary – ‘...it is needed to make the development acceptable in planning terms. If a condition is wider in scope than is necessary to achieve the desired objective it will fail the test of necessity’.
- Relevant to Planning
- Relevant to the development to be permitted ‘...it must be justified by the nature or impact of the development permitted...’
- Enforceable
- Precise
- Reasonable in all other respects ‘...Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness’.

12. It is considered that the existing condition, which restricts a wide range of permitted development rights in order to safeguard the character of the area (with specific reference to the countryside) and control further volume increases would now fail three of these tests. The condition is considered unnecessary, not relevant to the development which was permitted and unreasonable.

13. The property is no longer in the countryside and therefore such restrictions on volume increases no longer apply, neither is there a necessity to restrict permitted development rights in terms of potential impacts on the character of the area, it is therefore **unnecessary**. The development would have had a significant impact at the time, however due to the fact that the property is no longer in the countryside, it is now considered **irrelevant** as the nature and impact of the development which was permitted is now materially different. The lack of necessity of the condition and its irrelevance under the current materially different planning considerations make it **unreasonable**.

14. Below follows an assessment of the current material planning considerations:

Impact on the Character of the Area (outside the countryside)

15. As has been previously discussed, the application site now falls into the major development area of Wokingham. 2 Holme Green is a two storey dwelling located on Easthampstead Road. It is semi-detached with number 1 adjoining. Holme Green is a collection of houses of a similar style which are mainly semi-detached and arranged in a formal fashion along Easthampstead Road. The removal of condition 6 of planning application F/2009/0075 would allow permitted development under classes A, B, C, D and E of schedule 2, part one of the General Permitted Development Order 1995 (now 2015) to be carried out.

16. Various alterations and extensions of these buildings have been carried out, which broadly reflect the type of development which is falls under permitted development (which is not to say that they would be possible under permitted development) and therefore it is not considered that were permitted development rights to be restored to this property that there would be a significant detrimental impact on the character of the area. This is especially apparent in the case of both the attached and unattached neighbours, which have made alterations to their properties which are visible from the street frontage. For this reason, it is not considered that the restoring of permitted development rights to this property for the relevant classes would be detrimental to the character of the area and

therefore the proposal is in accordance with Core Strategy Policy CP3 and the Borough Design Guide.

CONCLUSION

Due to this site no longer being in countryside Condition 6 from planning application F/2009/0075 is no longer considered to be necessary, relevant or reasonable.

Therefore the removal of condition 6 is recommended as it would accord with the NPPG and Wokingham Development Plan Policies.

CONTACT DETAILS

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