

Agenda Item 83.

Application Number	Expiry Date	Parish	Ward
183289	14/03/2019	Wargrave	Remenham, Wargrave and Ruscombe;

Applicant	Mr and Mrs C & J Copland
Site Address	5 Hatchgate Cottages, Hatch Gate Lane, Cockpole Green, Wargrave
Proposal	Householder application for proposed erection of part single, part two storey side/rear extensions, single storey front extension, plus erection of garden room.
Type	Full (Householder)
PS Category	21
Officer	Stefan Fludger
Reason for determination by committee	Listed by Councillor Halsall in the event of a recommendation for refusal.

FOR CONSIDERATION BY	Planning Committee on Wednesday, 13 March 2019
REPORT PREPARED BY	Assistant Director – Place

SUMMARY
<p>The proposal would be contrary to Green Belt Policy in that the scale of extensions and proposed outbuilding would amount to disproportionate additions over and above the volume of the existing dwelling. The applicant has argued that there are Very Special Circumstances which justify the approval of the application in this instance. These take the form of a 'fall-back position' consisting of a permitted development scheme and an extant planning permission. It is not considered that Very Special circumstances <i>clearly outweigh</i> the identified harm to the Green Belt. The proposal is therefore considered unacceptable.</p> <p>No harm is identified regarding the specific design of the proposal, neighbouring amenity, the amenity of future occupiers or Highways issues.</p>

PLANNING STATUS
<ul style="list-style-type: none"> • Green Belt • Countryside • Contaminated Land Consultation Zone • Groundwater protection zone • Wind turbine safeguarding zone.

RECOMMENDATION
<p>That the committee authorise the REFUSAL of planning permission , for the reason set out below:</p> <p>1. The proposed extensions would enlarge the volume of the original dwelling beyond 35%. As such the proposal would result in extensions which are excessive in scale and detrimental to the open character of the Green Belt and therefore represents inappropriate development within the Green Belt. No Very Special Circumstances exist which clearly outweigh the harm identified. The proposal is therefore contrary to Policy CP12 of the Core</p>

Strategy, Policy TB01 of the MDD Local Plan and Section 13 of the National Planning Policy Framework.

PLANNING HISTORY		
Application Number	Proposal	Decision
171187	Householder application for the proposed erection of a part single/part two storey side, rear and front extension to dwelling plus erection of an open front porch.	Refused – 14/09/2017
180421	Full application for the proposed erection of a two storey side extension to dwelling.	Approved – 11/04/2018
181882	Application for a certificate of lawfulness for the proposed erection of two storey rear extension and a single storey front to form porch, plus erection of two detached outbuildings.	Approved – 27/07/2018

SUMMARY INFORMATION
<p>For Residential Site Area – 0.0837 ha Existing parking spaces - 0 Proposed parking spaces - 2</p>

CONSULTATION RESPONSES				
<table border="0"> <tr> <td>WBC Biodiversity</td> <td>No objection, subject to condition.</td> </tr> <tr> <td>WBC Highways</td> <td>Request further information.</td> </tr> </table>	WBC Biodiversity	No objection, subject to condition.	WBC Highways	Request further information.
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REPRESENTATIONS
<p>Town/Parish Council: No objection.</p> <p>Local Members: Listed in the event of a recommendation for refusal by Cllr Halsall on the grounds that the proposal would not be harmful to the Green Belt.</p> <p>Neighbours: 10 comments in support.</p> <p>Revised Plans Consultation: 2 comment reaffirming previous letters of support</p>

APPLICANTS POINTS
<ul style="list-style-type: none"> The proposal would lead to a smaller volumetric increase of development on site than the 'fall-back position' (combination of permission 180421 and permitted development 181882). Wokingham policy requires for maximum increases to the volume of dwellings in the Green Belt of 35% over and above the original dwelling. As the works are financially

viable, the 'fall-back' position consists of 'Very Special Circumstances' which justifies the inappropriate development.

- No other harm would occur as a result of the proposal.

PLANNING POLICY		
National Policy	NPPF	National Planning Policy Framework
Adopted Core Strategy DPD 2010	CP1	Sustainable Development
	CP2	Inclusive Communities
	CP3	General Principles for Development
	CP4	Infrastructure Requirements
	CP6	Managing Travel Demand
	CP7	Biodiversity
	CP9	Scale and Location of Development Proposals
	CP11	Proposals outside development limits (including countryside)
	CP12	Green Belt
Adopted Managing Development Delivery Local Plan 2014	CC01	Presumption in Favour of Sustainable Development
	CC02	Development Limits
	CC03	Green Infrastructure, Trees and Landscaping
	CC04	Sustainable Design and Construction
	CC07	Parking
	CC09	Development and Flood Risk (from all sources)
	CC10	Sustainable Drainage
	TB01	Development within the Green Belt
	TB06	Development of private residential gardens
	TB21	Landscape Character
	TB23	Biodiversity and Development
Supplementary Planning Documents (SPD)	BDG	Borough Design Guide – Section 4
		DCLG – National Internal Space Standards

PLANNING ISSUES

Description of Development:

1. The proposed development consists of a two storey side and rear extension to the main dwelling and a single storey outbuilding.
2. This application follows the refusal of a similar scheme under application number 171187 and the subsequent approval of a smaller extension under number 180421

and a certificate of lawfulness 181882 proposing a two storey rear and single storey front extensions and two detached outbuildings.

Principle of Development:

3. 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 (MDD) 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.

4. The Government attaches great importance to Green Belts. Paragraph 143 of the National Planning Policy Framework (NPPF) indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF indicates limited exceptions to inappropriate development. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. This approach is reflected in the NPPF as well as Core Strategy Policy CP12 and adopted Managing Development Delivery Local Plan Policy TB01, which aligns with the NPPF test that permits extensions provided they are not disproportionate over and above the size of the original building. The NPPF says the following with regard to Green Belts:

143: Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

*145. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are... **'the extension or alteration of a building provided that does not result in disproportionate additions over and above the size of the original building'**.*

5. As can be seen above, paragraph 145 establishes that an extension or alteration to a dwelling within the Green Belt, providing the extension of any building does not result in disproportionate additions over and above the size of the original building and that any development contrary to this would be inappropriate development in a Green Belt Location.

6. The application site is located outside of settlement limits and within designated countryside outlined by policy CP9 of the Core Strategy; as such an assessment against policy CP11 is also required. In line with the NPPF, Core Strategy Policy CP11 seeks to protect the intrinsic beauty of countryside locations. The Policy advises that;

7. 'In order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside of development limits will not normally be permitted except where: inter alia:
 - 1) It does not lead to excessive encroachment or expansion of development away from the original buildings; and
 - 2) In the case of residential extensions, does not result in inappropriate increases in the scale, form or footprint of the original building...
8. The proposed development is considered to have an adverse impact on the dwelling as it is not of a subservient scale when compared to the original dwelling and this will adversely impact on the attributes of the Green Belt and Countryside.
9. The policy context presented by the Local Plan, and by the NPPF, requires an assessment of the size, scale and design of any proposed extension in order to establish whether the proposal is in keeping with the original building and does not result in a disproportionate addition. Policy TB01 of the MDD requires that extensions to dwellings in the Green Belt are of a 'limited scale' defining limited as 35% over and above the volume of the original dwelling. Any extensions over 35% would therefore be considered to be inappropriate development.
10. The location of the proposed extension, like the previously refused application, would lead to an encroachment of built form into an undeveloped part of the site within the Green Belt. The volume of the existing house as measured on the supporting information submitted by the applicant is circa 289 cubic metres. The increase in volume of the proposed development would be approximately 102% (not even including the small outbuilding proposed), which is approximately the same as which was considered unacceptable under application 171187. It is therefore clear that this application would lead to the dwellinghouse being extended considerably above the tolerances of 35% of the original building, as set out in policy TB01 of the MDD, which is considered excessive and, by definition, harmful.
11. The proposed development does not fall within an exception listed in the NPPF and as such is inappropriate development and would fail to safeguard the Green Belt from encroachment.
12. As with the previously refused application on this site, a list of other Green Belt sites, including number 3 Hatchgate Cottages that have been considered at appeal is attached at appendix 1. These applications demonstrate that inspectors have upheld the Council's position with regards to protecting the Green Belt and refusing even small increases with regards to protecting the Green Belt and refusing even small increases over 35% in volume. For example, in the case of number 3 Hatchgate Cottages, this was refused with an increase volume compared to the original house.

Impact on Openness:

13. The NPPF highlights that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. There is no definition of openness in the NPPF, however in Green Belt Context, it is generally held to refer to freedom from, or the absence of development. Development need not be visible to harm the openness of the Green Belt, however in this instance the proposal would be visible from the street.

14. It has already been determined that the proposal is inappropriate development. The proposal would significantly spread built form into undeveloped areas of the site, by virtue of the large increase in the size of the house and the proposed outbuilding. It is noted that there are other extensions on other properties on this row of cottages, however these are less bulky in appearance than the proposal and do not hold significant weight. This is supported by an inspector's decision at number 3 to dismiss an appeal which exceeded the 35% limit.

Very Special Circumstances:

15. As the proposal is inappropriate development, very special circumstances need to exist to clearly outweigh any harm to allow the proposal to be acceptable. These circumstances will not exist, except where potential harm to the green belt by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations. The applicant has argued that this represents a valid 'fall back' position.

16. It is worth noting at this point that there is an extant permission at this property, for a two storey side extension (180421) which was approved after the previous refusal on this site (171187). This was considered acceptable as the volumetric increase would be only 34%. Additionally, a certificate of lawfulness has been granted for a two storey rear extension and two outbuildings. Neither of these developments have been commenced. The applicant has stated that the combined increase in volume as a result of these applications would be 136% and therefore greater than the current proposal, however it is worth noting that as permitted development rights have been restricted under application 180421, the permitted development outbuildings and rear extension would need to be commenced and fully completed before the side extension could be commenced. Additionally, the applicant has included the volume of the PD outbuildings in their calculations and the increase in the volume of the dwelling itself as a result of the fall-back position would actually be approximately 79%, significantly less than the 102% proposed in this application. However, it is agreed that the outbuildings approved would be spread significantly more across the site and therefore slightly more harmful to the Green Belt.

	Volume (cu. m)	Footprint (sq. m)
Existing House	289	45.4
Existing house + extensions and outbuildings approved by 180421 and 181882	682	141
Existing house + extensions and outbuildings subject of current application	645.75	126.1

17. The relevant case law with regards fall-back positions is the case of *R(on the application of Zurich Assurance Ltd (t/a Threadneedle Property Investments) v North Lincolnshire Council 2012*. This offers an explanation as to when a Local Planning Authority can take a fall-back position into account when deciding if to grant planning permission. An existing permission and permitted development rights are all capable of being possible fall-back options that developers may ask an authority to take into account when deciding whether or not to grant permission. The question which arises

is whether or not the position is genuine and therefore qualifies as a material consideration. Whereas what amounts to a material consideration is a matter of law, the weight to be given to it is a matter of planning judgment and the weight to be given to the fall-back position is a matter for the decision maker.

18. The applicant has asserted that the proposal would have a reduced impact on the openness of the Green Belt when compared to the fall –back position. Taking all development into account which is covered by certificate 181882 and application 180421, this would appear to be the case, with it being possible to construct more than one large outbuilding in the garden of the site, harmfully spreading development across the site. It is worth noting though, that this harm is already potentially possible, as there is nothing to restrict the construction of large PD outbuildings in the curtilage of the current dwelling, nor the large two storey rear extension but the proposed scheme is not possible under PD. Additionally, the extant permission and proposed PD rear extension to the house are of similar dimensions to the proposed scheme (although lesser in volume) meaning that any harm caused by these would be similar to that which is proposed under the current scheme. For this reason, the additional harm would be largely caused by the outbuildings in the garden, of which there is currently no restriction. There is also a small outbuilding proposed under the current application. It is important to note again that the weight to attach to the fall-back position is a matter for the decision maker and the weight to be attached increases with the likelihood of it being carried out.
19. The applicant has stated that the PD works would provide additional accommodation. They have also submitted additional information to demonstrate the likelihood that the permitted development proposals would be implemented should this scheme be refused. This consists of a builders quote regarding the costs of construction of the PD scheme and a valuation of the current property and an estimated valuation of the property should the PD schemes be carried out. This does appear to make the scheme financially viable as the increase in value of the dwelling would cover the cost of the works. This does make the PD scheme and current approval appear likely to be carried out. This being said, attention should again be paid to the fact that the approved permission (180421) restricts permitted development rights for this site which would prevent the PD scheme from going ahead. Therefore, the PD scheme would need to be **completed** prior to the commencement of any part of the approved extension, otherwise the PD scheme would not be possible. This casts significant doubt over the practicality of implementing and completing a whole rear extension and outbuildings prior to even commencing the approved side extension. The practicalities of relying on so much ancillary accommodation spread out in the garden are also questioned.
20. The applicant has also listed applications at Crouch End, Crazies Hill, Youngs Cottage, Kentons Lane (181864) and Laburnum Cottage (162149). The replacement dwelling at Crouch End resulted in a significant increase in the volume of the dwelling (circa 300%) and this also relied on a fall-back position which was considered likely to be carried out. However, this appears to rely only on only a permitted development fall-back position and therefore doubt was not cast on the practicality of this scheme being implemented in the same way as in the current scheme. At Young's Cottage, this involved a replacement dwelling following the approval of a planning application for a two storey side extension and a Certificate of lawfulness for two storey rear and side extensions, a single storey side extension, a single storey front extension and two detached outbuildings. This case also consisted of a planning application and

separate PD scheme and the proposed replacement dwelling was in the Green belt. However it is important to note that in this instance, again, there was no restriction to permitted development rights attached to the planning permission. Therefore, it is not unreasonable to suggest these schemes could be carried out concurrently in a practical manner, without having to complete the PD scheme first before even being able to commence the planning permission. With regards Laburnum Cottage, this relied only on PD schemes and therefore the same argument applies to Crouch End. It is considered that the specific situation on this site casts doubt over the practicality of implementing two separate schemes and being required to complete one before the other. Additionally, much of the habitable space allowed under permitted development would be in large outbuildings and the practicality of living across these outbuildings is questioned. Therefore, while the fall-back position is more than a theoretical concept and therefore undoubtedly a material consideration, the weight to be afforded to it is a matter for the decision maker and it is considered to only hold limited weight.

21. Further to the above there is another key difference between the referenced applications and the current application. These all related to replacement dwellings in large and spacious plots. Additionally, Policy TB01 of the Core Strategy does not set an upper limit for volumetric increases for either new or replacement dwellings. It does however apply a 35% upper limit to volumetric increases on extensions to residential properties. The proposed development is on a much smaller plot than the referenced approvals which were designed to be standalone dwellings. The resulting dwelling would be disproportionately large compared to the original.

22. In determining this application, the very special circumstances include the fall-back permitted development and extension. As the policy requirement for permitted householder extensions requires extensions to have no more than a 35% increase in volume over the original dwelling, the proposal would be harmful to the Green Belt. The fall-back position would be more harmful to the openness of the Green belt than the proposed scheme, however not substantially so and it has not been demonstrated that it is particularly likely. An inspector has taken a similar approach to a recent dismissal to a replacement dwelling at Upper Culham Farm (172036) and applied limited weight to the fall-back position based on the fact that it had been some time since the previous permissions had been approved and had not been at all implemented. Therefore the likelihood of the implementation of the fall-back position was questioned. This is similar to the current case for the reasons already discussed. Therefore, only limited weight can be applied to the fall-back position in this instance. On balance, it is considered that the Very Special Circumstances do not exist in this instance which *clearly outweigh* the other material considerations.

Design and Appearance:

23. The design of the proposal is considered to be compliant with the existing appearance of the dwelling and as such the proposal is not considered to detract from the character of the property its self.

Residential Amenities:

24. Reference to the planning history for neighbouring number 4 Hatchgate Cottages suggests that none of the side facing windows at that property serve habitable rooms, save for a very small study. Therefore any modest overbearing, overlooking or loss of light impact would not substantiate a reason to refuse this application. The study

is so small it cannot be considered reasonably a habitable room as it would serve little other purpose. There is a small outbuilding proposed adjacent to the boundary of the site, this is of such a size and scale that it would not result in harm to the amenities of the neighbouring property, despite not being set 1 metre from the site boundary.

25. The proposal would not cause harmful overlooking, overbearing or loss of light impacts to any other neighbour.

Access and Movement:

26. The existing property has no driveway. The Highways Officer has requested a plan demonstrating 3 parking spaces for this proposal. The currently proposed plan shows 2 parking spaces. However, it is clear that 3 spaces could be accommodated on the proposed driveway. This can be addressed by requiring the whole driveway to be implemented as shown by condition.

Amenity Space for future occupiers:

27. It is not considered that the proposal would result in a significant loss of amenity space to the occupiers of the dwelling. The remaining space is in accordance with the 11 metres as required by the Borough Design Guide and is acceptable.

Ecology:

28. CP7 of the Core Strategy requires the conservation of sites for nature in accordance with national, regional, county and local biodiversity action plans. Development is permitted where the need for the proposal outweighs the need to safeguard nature conservation. TB23 of the MDD requires the incorporation of new biodiversity features, buffers between habitats and species of importance and integration with the wider Green Infrastructure network.

29. Planning authorities have duties under the habitat Regulations (The Conservation of Habitats and Species Regulations 2017). The bat survey submitted with this application found evidence of bats and therefore recommended that a License from Natural England is required prior to commencement of works. The Local Authority needs to be satisfied that a license for development works license for development works affecting bats is likely to be granted prior to issuing Planning Permission.

30. It is considered by the Council's Ecologist that as long as a mitigation plan such as that given in the bat survey report is provided, the proposed works would pass the three tests of The Habitat Regulations, and as such receive from Natural England a licence, because:

- The development is for an imperative reason of overriding public interest of an economic nature as the development will contribute to a social and economic need of the local community for better housing (this is assuming that it is in compliance with other planning policy) - therefore Regulation 55(2)(e) can be met
- There is no satisfactory alternative to the development as without carrying out the works the aforementioned need would not be met - therefore Regulation 55(9)(a) can be met
- Appropriate mitigation can be provided which will ensure that there will not be a detrimental impact to the favourable conservation status of the bat species concerned - therefore Regulation 55(9)(b) can be met

As such, the Ecologist has recommended this application for approval subject to a condition requiring a License to be obtained and submitted to the local Planning Authority for verification. Thereafter, mitigation measures approved in the license shall be maintained in accordance with the approved details. Should the conditions at the site change and/or the applicant conclude that a license for development is not required, the applicant is to submit a report to the council detailing the reasons for this assessment.

CONCLUSION

The proposal would be contrary to Green Belt Policy in that the scale of extensions and proposed outbuilding would amount to disproportionate additions over and above the volume of the existing dwelling. As such, it would represent inappropriate development in the Green Belt. Very Special circumstances do not clearly outweigh the other material considerations. The proposal is therefore unacceptable.

Appendix 1

A number of appeals have been received in the area, both for extensions and replacement dwellings. Including at number 3 Hatchgate Cottages. These do not all contain reference to fall-back positions but are of relevance to this appeal:

172036 - (APP/X0360/W/18/3193737) - Upper Culham Farm, Upper Culham Lane – The inspector considered that the fall-back position would be unlikely to occur and therefore could not give it significant weight. Also, the proposal was harmful to the character of the area - Dismissed

F/2011/1533 (APP/X0360/D/11/216552) – 3 Hatchgate Cottages - Exceeds the limit of 35% increase in volume over the original dwelling – Dismissed.

F/2008/0260 (APP/X0360/A/08/2080381 – The Shack, Willow Lane - Refusal due to significant increase in volume of dwelling in Green Belt – Dismissed.

F/2008/0374 – (APP/X0360/A/07/206022) – Sheeplands house, Wargrave Road – Extension over 35% Increase in volume in Green Belt. – Dismissed.

F/2007/1459 – (APP/X0360/A/07/206022) – The Wilderness, Bowsey Hill - Appeal against refusal of permission for an extension. Inspector allowed appeal as he calculated only a 34% increase in volume which fell below 35% maximum - Allowed