

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	241829
Site Address:	46 and 46a Robin Hood Lane, Winnersh, Wokingham, RG41 5NQ
Expiry Date:	18 October 2024
Site Visit Date:	11 September 2024
Proposal: Application to vary condition 2 of planning consent 210405 for the proposed erection of 2no. four bedroom detached dwelling, with associated parking, cycle/bin stores and new access following demolition of existing 1no. three bedroom detached dwelling. Condition 2 refers to the approved details, the variation is to change fenestration. (Retrospective)	

PLANNING CONSTRAINTS/STATUS

- Major development location of Winnersh
- Heathrow Aerodrome Consultation Zone
- Bat Roost Habitat Suitability
- Replacement Mineral Local Plan
- Tree Preservation Orders (TPO-0759-1995)
- Landscape Character Assessment Area
- SSSI Impact Risk Zones
- Flood zone 1

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP5 – Housing Mix, Density and Affordability CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP17 – Housing Delivery
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC04 – Sustainable Design and Construction CC06 – Noise CC07 – Parking CC09 – Development and Flood Risk CC10 – Sustainable Drainage TB05 – Housing Mix TB06 – Development of Private Residential Gardens TB07 – Internal Space Standards

	TB21 – Landscape Character TB23 – Biodiversity and Development
Other	Borough Design Guide Supplementary Planning Document CIL Guidance Sustainable Design and Construction Supplementary Planning Document

PLANNING HISTORY

Application No.	Description	Decision & Date
213072	Application for submission of details to comply with the following condition of planning consent 210405 dated 26/04/2021. Condition 3. External Materials. 4. Details of boundary walls and fences. 5. Drainage details. 7. Construction method statement. 8. Electric vehicle charging points. 14. Landscaping. 16. Biodiversity enhancement plan.	Approve 01/12/2021
210405	Full Planning application for the proposed erection of 2no. 4 bedroom detached dwelling, with associated parking, cycle/bin stores and new access following demolition of existing 1no. 3 bedroom detached dwelling.	Approved 26/04/2021
200182	Full application for the demolition of existing three bedroom detached house, and construction of 2no. four bedroom, detached houses with associated parking, cycle and bin stores, and new access.	Refused due to lack of phase 2 survey 14/05/2020
172904	Application for a non-material amendment to planning consent 163431 to allow lowering of roof ridge height to garden rooms/conservatories to the rear of plots 1 and 2, reducing of window widths to allow for brick piers between windows and new skylight above garden rooms.	Approved 26/10/2017
171070	Application for a non-material amendment to allow substitution to approved drawings with 1007-122A-Plot 1-Plans, 1007-123B-Plot 1-Elevations, 1007-124A-Plot 2-Plans and 1007-125B-Plot 2-Elevations for changes to fenestration and porch design.	Approved 16/05/2017
163431	Full application for the proposed erection of 2no, four bedroom detached dwellings with associated parking, cycle and bin stores and new access, following demolition and removal of existing dwelling.	Approved 01/02/2017
152989	Full application for the proposed erection of 6no two bedroom and 1no three bedroom flats with associated parking, cycle and bin stores and	Refused 15/12/2015

	repositioning of access. Demolition of existing building	
11446	Garage extension.	Approved 27/09/1979

CONSULTATION RESPONSES

Internal

WBC Landscape and Trees – objection raised on ground of impact on the street scheme and verdant character of the area

(*Officer comment:* the application description has since been amended to remove the reference to the proposed variation of condition 14 (landscaping)).

External

No external consultees

REPRESENTATIONS

Winnersh Parish Council	No comments received
Ward Member(s)	No comments received
Neighbours	No comments received

APPRAISAL

Proposal:

This is an application made pursuant to Section 73A of the Town and Country Planning Act 1990 (as amended) for the permission to carry out the development without compliance with Conditions 2 (Approved Plans) and 14 (Landscaping) of the Planning Permission 210405. The application form states that the development was completed on 1 July 2022 and that the application seeks to regularise revisions to door & window placement and landscaping. The floorplan and elevations drawings were approved under Condition 2 of Planning Permission 210405 and soft landscaping details were approved under condition discharge application 213072 for the approval of details required for submission under Condition 14. The application description has since been amended and now is for the permission to carry out the development without compliance with Condition 2 (Approved Plans) only of the Planning Permission 210405.

The approved development was for the erection of 2no. 4-bedroom detached dwellings with associated parking, cycle/bin stores and new access, following the demolition of a 1no. 3-bedroom detached dwelling.

The proposed changes to layout and elevations as identified in the Supporting Statement submitted with this application include:

- Removal of two windows (to a family room and to a living room) as shown below, in respect of Plot 1:

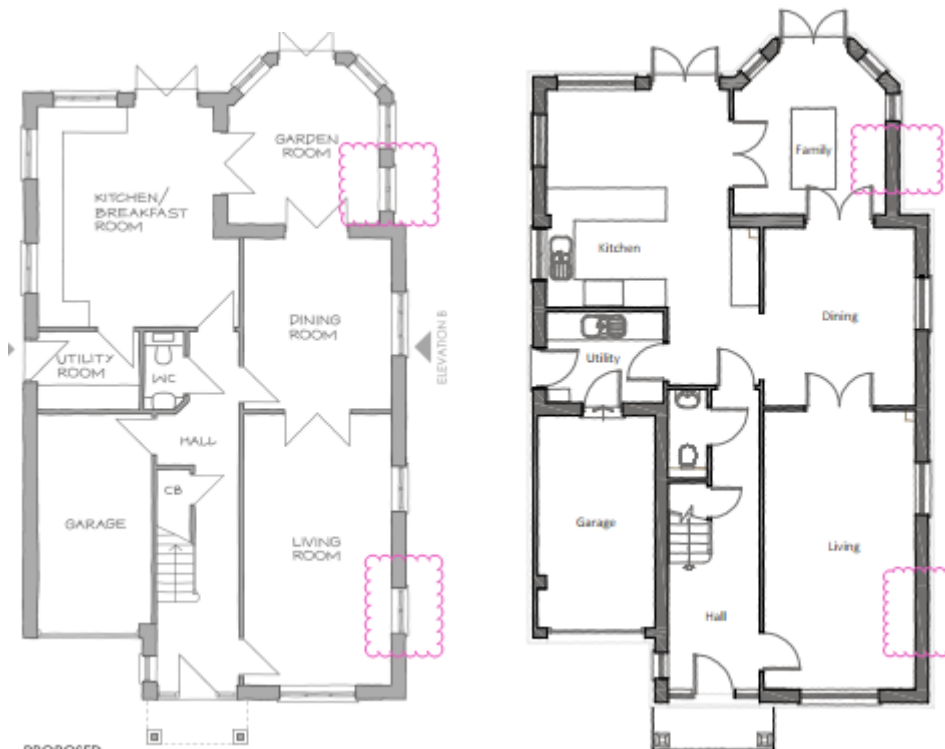


Fig 1: Approved (left) and proposed (right) layout of Plot 1

- Removal of two windows (to a kitchen and to a living room) as shown below, in respect of Plot 2:

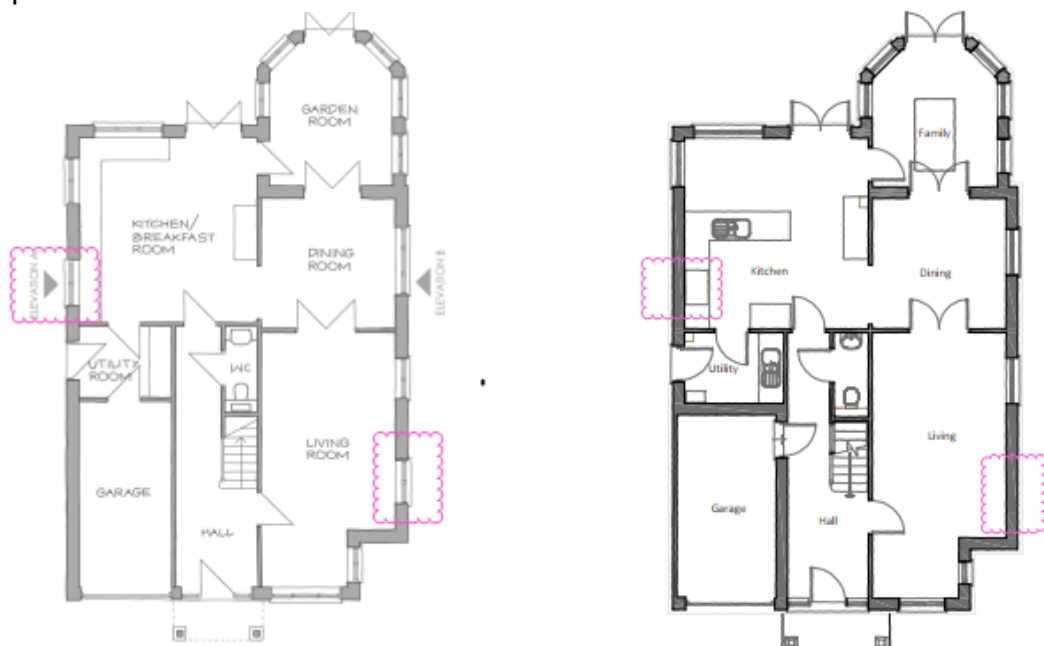


Fig 2: Approved (left) and proposed (right) layout of Plot 2

Officers note that the submitted drawings include further changes not identified in the planning application, namely:

- Front porch added on the Block Plan to both dwellings
- Reconfiguration of internal layout, including changes to bedroom size

Site Description:

The application site contains two semi-detached 4-bedroom dwellings constructed pursuant to planning permission 210405. The dwellings are set back from Robin Hood Lane with parking and circulation space to the front. Robin Hood Lane is designated as a Green Route which is characterised by tree and hedgerow planting to the frontages.

Legislative background:

This application is made under Section 73A of the Town and Country Planning Act 1990 for retrospective planning permission for development as originally carried out. Specifically Section 73A(1) & s73A(2)(c) provide that *"On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application [...] without complying with some condition subject to which planning permission was granted."*

Section 73 of the Act instructs the Local Planning Authority to consider the variation to, or relief of conditions that are applied for, stating that *"if they [the LPA] decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted....they shall grant permission accordingly"* (s.73(1)(a)). As such, the Local Planning Authority can grant permission unconditionally or subject to different conditions, or alternatively refuse the application if it is deemed that the original condition(s) should remain in place.

The grant of a planning permission under Section 73 essentially provides a new planning permission. The key issues for consideration comprise those matters relevant to the assessment of the condition being varied or relieved.

The description as submitted originally sought to regularise the non-implementation of landscaping scheme in accordance with details approved pursuant to Condition 14, however, during the course of the application, it has been agreed to remove the reference to Condition 14 from the proposal description.

Principle of Development:

The principle of development for this proposal was established with the granting of application 210405. There has been no material change to the development plan or national policy which would change this position. As this application seeks the variation of Condition 2, this application will be assessed with regard to the impacts of the revisions sought.

Character of the Area:

This application seeks only relatively minor amendments to the approved scheme. Due to the nature of the amendments, namely changes to the side fenestration, internal layouts and the correction of block plan to now show the front porches, these are not considered to have appreciable impact on the character of the area, therefore no concerns are raised in this regard.

The original planning permission imposed conditions 3 (external materials) and 4 (boundary treatments) requiring that details are submitted for the approval prior to commencement of development. The development has now been completed and details required by both conditions have been submitted under application ref 213072. Therefore, it is no longer necessary to reimpose these conditions.

Neighbouring Amenity:

Overlooking, Loss of Light and Overbearing:

The proposal is to remove windows on ground floor level. No additional windows are proposed. As such, the proposal would not result in any additional overlooking impacts when compared with the approved scheme. Moreover, as the proposed built form would remain the same, no new implications in terms of loss of light or overbearing would arise. The original planning permission was subject to Conditions 17 (restriction of PD rights) and 18 (obscure glazing). These conditions are re-imposed to safeguard the amenity of occupiers of neighbouring properties.

Highway Access and Parking Provision:

There are no proposed changes to parking provision (3 parking spaces and a garage for each plot), or circulation space, therefore, no concerns arise on highway grounds. It is recognised that the study rooms satisfy the NDSS requirements to function as a 5th bedroom, however, given the on-site provision of parking (3 allocated parking spaces and garage), there would be sufficient parking available on site for each plot. The originally-imposed condition 10 (parking and turning) is proposed to be re-imposed, but with wording altered, to ensure that parking and turning space is retained. Similarly, condition 11 (cycle parking) is proposed to be re-imposed to ensure that cycle storage is retained.

The original planning permission was granted subject to Condition 7 which required that construction method statement (CMS) be submitted for approval and adhered to throughout the period of construction. The CMS has been submitted to and approved by the Local Planning Authority under application 213072. Given that the construction of the dwellings has now been completed, this condition no longer serves any useful purpose and can be removed. The original planning permission included Condition 8 which required that details of electric vehicle charging points be submitted to the Local Planning Authority for approval. These details have been approved (reference 213072) and EVC points installed. Condition 8 is retained, albeit in an amended form, to ensure that the approved and implemented EVC points are retained.

The original planning permission included conditions 12 (access surfacing) and 13 (access provision). Given that the access has been constructed, it is no longer necessary to reimpose condition 13. Officers note that the on-plot access has not been surfaced in accordance with plans submitted pursuant to condition 12. Therefore, condition 12 is re-imposed to ensure that on-plot access is constructed with permeable block paving, to prevent spillage of the existing loose gravel onto the highway. A time period for compliance is deemed necessary.

Flooding and Drainage:

Details of drainage scheme have been approved pursuant to Condition 5 (application reference 213072) and the proposal does not seek to amend these. As such, condition 5 is retained, albeit in an amended form, to ensure that the approved drainage scheme is maintained in the approved form for the lifetime of development.

Landscape and Trees:

The original planning permission 210405 was granted subject to detailed landscaping scheme proposing new trees along the frontage of the approved dwellings. The extract from the officer report (210405) on this issue states:

“A landscape scheme will need to be submitted as part of a conditions application should this application be approved, in accordance with MDD Local Plan Policy CC03. The landscape proposals will need to include new planting to the front of the site including a hedgerow with specimen trees and a replacement tree for the TPO tree now removed on health and safety grounds. Subject to conditions, there is no objection to the scheme on trees and landscape grounds. “

Given that the original planning application was approved on the basis that additional trees would be planted, the scheme where these trees are omitted would not be acceptable. Following the discussion with the applicant, the description of the proposal under this current application was amended to remove references to Condition 14 and it was agreed that the details approved pursuant to Condition 14 would be implemented. Therefore, Condition 14 is reimposed to require that the approved details be implemented within 6 months of the decision notice being issued. Condition 5 (retention of trees and shrubs) is repeated to ensure that any trees or shrubs that fail or are removed within 5 years are replaced as required.

Ecology:

The proposal as currently worded would not result in any new considerations in ecology terms, therefore, no concerns arise in this regard. Please also see the section above on landscape and trees. The original planning permission included condition 6 (bat licence) to be obtained from Natural England prior to demolition works commencing. Given that the demolition (and construction) has been completed the reimposition of this condition as originally worded would not meet the required tests set out in the PPG for planning conditions. Notwithstanding, condition 6 was imposed due to the findings of Phase 1 and Bat Emergence and Re-entry reports (John Wenman Ecological Consultancy, September 2020), which concluded that the dwelling now demolished hosted a maternity roost for up to 12 common pipistrelle bats as well as day roosts for common and soprano pipistrelles. The loss of these roosts without compensation caused harm to the local conservation status of protected species (and a species of principal importance). This is contrary to the ODPM Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and Their Impact within the Planning System), WBC Core Strategy Policy CP7 and MDD LP Policy TB23. Therefore, it is appropriate to impose a different condition to secure appropriate compensation for the loss of the bat roosts. Updated condition 6 refers.

The original planning permission was subject to condition 16 requiring that details of the proposed biodiversity enhancements to be submitted and implemented. These were submitted and approved (under reference 213072). Condition 16 is imposed, albeit with wording changed to ensure that the biodiversity enhancement features are retained in accordance with those approved details.

Residential amenity:

Internal amenity:

The proposal seeks to regularise changes to the internal layout which has been reconfigured in both dwellings. Officers acknowledge that these changes would result in changes to the dimensions of bedrooms/study rooms as shown in Table 1 below:

	Plot 1			Plot 2		
	approved	proposed	difference	approved	proposed	difference
Bedroom 1	16	13	-3	13	14	1
Bedroom 2	14.75	13.8	-0.95	11.5	12	0.5
Bedroom 3	10.75	9	-1.75	8.5	8.5	0
Bedroom 4	10	11.5	1.5	12.5	12.75	0.25
Study	4.5	8.5	4	4	8.5	4.5

Table 1: Changes to internal layout

The approved internal layout for each plot complied with NDSS for 3no. double bedrooms and 1 no single bedroom. The proposed (as built) layout would comply with NDSS for 3no. of double bedrooms and 1 no. single bedroom; the dimensions of study rooms would render it sufficiently large to accommodate an additional bedroom. None of the bedrooms proposed would fall below the NDSS in terms of width or floorspace. Therefore, the proposed changes in terms of internal layout would be minimal and overall, the proposal is considered to comply with both the Council's and NDSS standards.

External amenity:

The proposal does not seek to alter the footprint of the dwellings, therefore, there would not be a change in the amount of external amenity space proposed.

CONCLUSION:

As set out in the preceding paragraphs, the application for a permission to carry out the development without compliance with Condition 2 (Approved Plans) of the Planning Permission 210405 would not result in any significant unacceptable impact and as such, the proposal is recommended for approval.

Given that the demolition and construction is now completed, it is no longer necessary to reimpose Condition 1 (timescales), Condition 3 (external materials), Condition 4 (boundary treatment) Condition 6 (bat licence), Condition 7 (construction method statement), Condition 9 (protection of trees) and Condition 13 (access to be provided).

Conditions 5 (drainage), 8 (electric vehicle charging points), 10 (parking and turning space), 11 (cycle parking), 12 (access surfacing), 14 (landscaping) and 16 (biodiversity enhancements) are reimposed and updated to ensure the provision and/or ongoing retention and/or maintenance of the relevant elements of the scheme. Condition 2 (approved plans) is amended to reflect the approval of amended plans.

Community Infrastructure Levy (CIL):

When planning permission is granted for a development that is CIL liable, the Council will issue a liability notice as soon as practicable after the day on which the planning permission first permits development. Completing the assumption of liability notice is a statutory requirement to be completed for all CIL liable applications.

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:	Approve
Date:	15 October 2024
Earliest date for decision:	15 August 2024

Recommendation agreed by: (Authorised Officer)	
Date:	18.10.24