

## DELEGATED OFFICER REPORT



**WOKINGHAM**  
**BOROUGH COUNCIL**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                            |
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| <b>Application Number:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 250506                                                     |
| <b>Site Address:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Autumn House, Milley Lane, Hare Hatch, Wokingham, RG10 9TH |
| <b>Expiry Date:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 9 June 2025                                                |
| <b>Site Visit Date:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 24 March 2025                                              |
| <b>Proposal:</b> Application to vary conditions 2, 5, 7 and 15 of planning consent 212446 (allowed at appeal ref: APP/X0360/W/21/3289621 RD and varied by 240108) for the proposed erection of 1 no. x 4 bedroom detached dwelling with link-attached garage and workshop, plus associated parking and landscaping, following demolition of existing animal enclosures, aviaries and office/staff welfare building. Condition 2 relates to the approved plans, 5 to landscaping, 7 to drainage details and 15 to boundary treatments, and the variation is to include an array of PV panels plus amended drainage details and details of boundary treatments. |                                                            |

### **PLANNING CONSTRAINTS/STATUS**

Green Routes and Riverside Paths  
Heathrow Aerodrome Consultation Zone  
Affordable Housing Thresholds  
Areas of Special Character – **Hare Hatch, Wargrave**  
Bat Roost Habitat Suitability  
Scale and Location of Development Proposals – **Green Belt**  
Great Crested Newt Consultation Zone  
Ground Water Zones  
Nuclear Consultation Zone – **Special Case Zone**  
Radon Affected Area  
Landscape Character Assessment Area – **Hare Hatch Farmed Chalk Slopes**  
SSSI Impact Risk Zones  
Green Routes and Riverside Paths Consultation Zone  
Ordinary Watercourses Consultation Zone  
Local Plan Update Submitted Sites

### **PLANNING POLICY**

|                           |                                                                                                                                                                                                                                                                                                                          |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>National Policy</b>    | National Planning Policy Framework (NPPF)<br>National Planning Policy Guidance (NPPG)                                                                                                                                                                                                                                    |
| <b>Core Strategy (CS)</b> | CP1 – Sustainable Development<br>CP3 – General Principles for Development<br>CP4 – Infrastructure Requirements<br>CP5 – Housing Mix, Density and Affordability<br>CP6 – Managing Travel Demand<br>CP7 – Biodiversity<br>CP9 – Scale and Location of Development Proposals<br>CP11 – Proposals Outside Development Limits |

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             | CP12 – Green Belt<br>CP17 – Housing Delivery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>MDD Local Plan (MDD)</b> | CC01 – Presumption in Favour of Sustainable Development<br>CC03 – Green Infrastructure, Trees and Landscaping<br>CC04 – Sustainable Design and Construction<br>CC06 – Noise<br>CC07 – Parking<br>CC09 – Development and Flood Risk<br>CC10 – Sustainable Drainage<br>TB01 – Development within the Green Belt<br>TB06 – Development of Private Residential Gardens<br>TB07 – Internal Space Standards<br>TB21 – Landscape Character<br>TB23 – Biodiversity and Development<br>TB24 – Designated Heritage Assets<br>TB25 – Archaeology<br>TB26 – Buildings of Traditional Local Character and Areas of Special Character |
| <b>Other</b>                | Borough Design Guide Supplementary Planning Document<br>CIL Guidance + 123 List<br>Affordable Housing Supplementary Planning Document<br>Wargrave Parish Design Statement                                                                                                                                                                                                                                                                                                                                                                                                                                               |

| <b>PLANNING HISTORY (OLD HOUSE AND BIRD GARDENS)</b> |                                                                                                                                                  |                           |
|------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <b>App No.</b>                                       | <b>Description</b>                                                                                                                               | <b>Decision/Date</b>      |
| R/226/1962                                           | New access to Milley Lane                                                                                                                        | Approved 7 November 1962  |
| PD/692/1967                                          | Garage                                                                                                                                           | Approved 21 December 1967 |
| 09784/09785                                          | Alterations and additions to building                                                                                                            | Approved 15 February 1979 |
| 19188                                                | New wall, store and two bedrooms                                                                                                                 | Approved 1 May 1982       |
| 19199                                                | Demolition and extension to building                                                                                                             | Approved 6 May 1982       |
| 20331/20332                                          | Hallway link to old cottage and conservatory and extension to building                                                                           | Approved 17 November 1983 |
| 35387/35492                                          | Bay window and removal of chimney breast                                                                                                         | Approved 9 May 1990       |
| 35388                                                | Noise fence                                                                                                                                      | Refused 13 June 1990      |
| 36374                                                | Garden wall and greenhouse                                                                                                                       | Approved 17 November 1990 |
| 39152                                                | CoU from agricultural land (including within The Bird Gardens) to domestic recreational with associated pens and aviaries, tennis court and pool | Approved 22 July 1992     |
| 40595                                                | Extensions to aviary to form keeper's accommodation                                                                                              | Refused 22 July 1992      |
| A/93/225595                                          | Appeal against refusal of 40595                                                                                                                  | Dismissed 3 November 1993 |
| F/2012/1098                                          | CoU of outbuilding to staff                                                                                                                      | Refused 20 July 2012      |

|        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                            |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
|        | accommodation                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                            |
| 191566 | New vehicular access to Milley Lane for the existing and new access and associated fencing and gates                                                                                                                                                                                                                                                                                                                                                                                   | Approved 13 September 2019                                 |
| 202300 | Relocation of existing first floor doorway, installation of new stud wall and new window at ground floor level                                                                                                                                                                                                                                                                                                                                                                         | Approved 15 October 2020                                   |
| 212446 | Full application for the proposed erection of a 4 no. bedroom detached dwelling with link-attached garage and workshop, plus associated parking and landscaping, following demolition of existing animal enclosures, aviaries and office/staff welfare building.                                                                                                                                                                                                                       | Refused 9 November 2021, Allowed at Appeal 23 October 2023 |
| 240108 | Application to vary condition 2 of planning consent 212446 (allowed at appeal ref: APP/X0360/W/21/3289621 RD) for the proposed erection of 1 no. x 4 bedroom detached dwelling with link-attached garage and workshop, plus associated parking and landscaping, following demolition of existing animal enclosures, aviaries and office/staff welfare building. Condition 2 relates to the approved plans to allow changes to the site layout and elevational details of the dwelling. | Approved 18 April 2024                                     |

## CONSULTATION RESPONSES

### Internal

WBC Drainage – No objections  
WBC Highways – No objections  
WBC Landscape and Trees – No objections  
WBC Built Heritage Officer – Concerns with the design of the vehicle gate  
WBC CIL – No comments received

### External

None consulted

## REPRESENTATIONS

|                     |                                                                                                                                                                                                                                                                                                   |
|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parish/Town Council | No objections                                                                                                                                                                                                                                                                                     |
| Ward Member(s)      | No comments received                                                                                                                                                                                                                                                                              |
| Neighbours          | One neighbour representation received listing the following concerns:<br><br><ul style="list-style-type: none"> <li>- Applicant is applying to retain building previously proposed for demolition (<b><i>Officer comment: The retention of the building is no longer proposed</i></b>)</li> </ul> |

## APPRAISAL

### Site Description:

The entire Old House site measures approximately 3.52 hectares and is located between Bath Road in the north and Milley Lane in the south. On the site is a Grade II listed building known as The Old House, which is concentrated towards the southwestern corner on Milley Lane, with the grounds immediately to the east set out as historical ornamental gardens/parkland.

A C20th change involved the inclusion of The Bird Gardens (subject site) within the site, the stopping up of the access from Bath Road and the introduction of the existing access on Milley Lane. The Bird Gardens comprises 1.52 hectares to the east of The Old House. The site is wooded, with overgrown and disused bird cages (in the form of a walled garden) concentrated in the southeastern corner near the intersection with Scarlett Lane but mostly removed as part of the establishment of a new access, approved in 191566. Planning application 39152 indicates that the site has a residential use although it would appear to fall outside of the curtilage of The Old House, due both to the physical distance and separation of the site from the house.

The surrounding area is Green Belt and comprises a mix of residential, office, retail and industrial uses interspersed amongst the mostly low-density settlement of Hare Hatch, an Area of Special Character as recognised by policy TB26 of the MDDL P.

### Site History:

The site's more recent planning history starts with application 212446, which sought to erect a 4no. bedroom detached dwelling with link-attached garage and workshop, plus associated parking and landscaping, following demolition of existing animal enclosures, aviaries and office/staff welfare building. This application was initially refused by the Council but was eventually allowed at appeal (APP/X0360/W/21/3289621 RD) on 23<sup>rd</sup> October 2023.

In April 2024, a s.73 variation of consent 212446 (240108) was approved to allow changes to the site layout and elevational details of the dwelling. This consent also discharged several pre-commencement conditions imposed on consent 212446, namely:

- Condition 3 (Archaeological Written Scheme of Investigation)
- Condition 4 (materials for the dwelling and garage only)
- Condition 5 (landscaping)
- Condition 6 (Biodiversity enhancements)

Condition 4 originally required the submission of the boundary treatment details alongside the materials for the dwelling and garage. These were not submitted at the time of approving this application and therefore a new condition (15) was imposed requiring further details of the boundary treatments.

## **Proposal Description:**

This application seeks to vary condition 2 of consent 212446 (as varied by consent 240108), specifically to include the erection of a detached solar array in the dwelling's rear garden.

Consequently, minor variations are sought to the landscaping (condition 5). The applicant has also submitted details to discharge conditions 7 and 15 of 212446/240108.

## **Principle of Development:**

### Solar Array:

Prior to the standard assessment of the development's acceptability in principle, it is important to address the substantial addition of the detached solar array and whether it can be considered a 'minor material amendment' to the consented scheme.

Section 73 of the Town and Country Planning Act 1990 is intended to be a provision which enables a developer to make a section 73 application to remove or vary a condition, provided of course that the application does not conflict with the operative part of the planning permission.

A key court case in the interpretation of Section 73's is *Finney v Welsh Ministers*; this decision clarified that section 73 of the Town and Country Planning Act 1990 cannot be used to make changes that would alter the fundamental description of the development.

More recent case law on the matter (*Armstrong v Secretary of State for Levelling-up, Housing and Communities & Anor [2023]*) has established a greater flexibility for the provision. The relevant question is whether the proposed variations would be 'substantially different' or be a 'fundamental alteration' to the operative part of the development.

Turning to the solar array proposed, it is sited a generous distance (50 metres approx.) from the dwelling and is of a notable size/footprint (16 x 3.9 metres). It is a form of operational development that requires planning permission which ultimately has additional impacts on the openness of the Green Belt it is located within (this is discussed in further detail below).

With this in mind, attention turns to the description of development. The operative part of the development is clear, in that the consent permits the erection of 1no. residential dwelling plus associated parking and landscaping. The solar array proposed, whilst of a notable scale, is considered to be an ancillary form of sustainable energy generation for the dwelling consented. It does not, from the Council's viewpoint, fundamentally alter the operative part of the permission, nor the description of development as the development delivered would still be a single dwelling, albeit with additional ancillary development.

### General:

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.

The site is located within the Green Belt and Countryside and is therefore subject to policies CP11 and CP12 of the Core Strategy. It is acknowledged that the principle of development at the site was established with the granting of APP/X0360/W/21/3289621 RD, but the addition of the solar array warrants additional assessment against local and national policy to ensure it does not harm the openness of the Green Belt.

#### Green Belt:

Policy CP12 of the Core Strategy refers to national policy to enforce its aims, therefore attention turns to the 2024 National Planning Policy Framework (NPPF).

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. National Green Belt policy has however substantially changed since the determination of application 212446, namely with the addition of the 'Grey Belt' definition with a primary focus on previously developed land.

Paragraph 153 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. '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.

Paragraph 154 of the NPPF provides a list for exceptions for development that can be considered appropriate in the Green Belt. Of particular relevance to this application scheme is section g, which states:

*"limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt."*

The proposed development's acceptability when allowed at appeal pertained to the demolition of a large amount of structures/buildings associated with the historic aviary use of the site; ultimately, the new dwelling proposed was considered less harmful to the openness of the Green Belt in comparison. With regards to the solar array, its siting 50 metres away from the dwelling does notably encroach development northwards that does result in some harm to the openness of the Green Belt.

That being said, the additional footprint proposed would still be notably smaller than the aviaries and other buildings that currently occupy the site. Its siting close to the ground would ensure no adverse harm to the visual openness of the Green Belt too.

Consideration must also be given to the fact it is a sustainable form of energy generation for the dwelling consented, a form of development supported in principle by the NPPF, CP1 of the Core Strategy and policies CC01 and CC04 of the MDD Local Plan.

Paragraph 154 states that the redevelopment of previously developed land must not cause **substantial harm** to the openness of the Green Belt. The Council consider that the harm caused by the solar array would be no greater than moderate and this harm is neutralised by the benefits of sustainable energy generation for the consented dwelling.

#### Countryside:

Core Strategy policy CP11 requires development to protect the separate identity of settlements and maintain the quality of the environment.

The addition of the solar array, as outlined above, would cause some harm to the openness of the Green Belt/Countryside but in the context of the site and its existing buildings/structures, the encroachment of development northwards is not considered excessive and would adequately maintain the quality of the environment. Overall, the proposed changes would have an acceptable impact on the Countryside.

#### **Character of the Area:**

#### Policy Context:

With regards to well-designed places, paragraph 130 of the NPPF states planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

Paragraph 180(b) of the NPPF requires that planning applications enhance the natural and local environment by 'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'

Policy CP11 supports development in the countryside only where it maintains the high quality of the rural environment. Policy CP1(1) similarly only supports development that maintains or enhances the high quality of the environment, with

policy CP3 supporting development of an appropriate mass, layout, built form, height and character to the area CP3(a) and which makes a positive contribution to the sense of place contributes to the buildings and spaces themselves and in the way they integrate with their surroundings CP3(f).

The Borough Design Guide Supplementary Planning Document provides further guidance for developers with general guidance that development should respond positively to its site and local context (G1) and respond positively to the local character of the area (G2).

The National Design Guide section B1, paragraph 67 also states that the built form of well-designed places should relate well to:

- the site, its context and the opportunities they present;
- the proposed identity and character for the development in the wider place;

### Assessment:

The proposed solar array, whilst having some impacts on the spatial openness of the surrounding Countryside/Green Belt, would have a negligible visual impact on the character of the area as they would be stationed very close to the ground, limiting any public viewpoints.

With regards to the vehicle gates and frontage fencing proposed, 1.8 metre tall timber close boarded fences would enclose the frontage. The vehicle gate would be enclosed by two brick piers and would adopt a similar timber close boarded design as the fencing, with a height of 1.8 metres. Initial concerns were raised by both the Case and Built Heritage Officers regarding the design of the vehicle gate. In particular, its close boarded style and height was considered a relatively harsh urban element in comparison to the character of Milley Lane.

Following further discussions between the Case Officer and Agent, it was concluded that the vehicle gate is acceptably in-keeping with the character of Milley Lane; Examples of other tall close boarded vehicle gates are prevalent along Milley Lane, namely Little Acres to the North and Hill House immediately opposite the application site,

Minor changes to the side boundary treatments are also proposed. On the eastern boundary, it is proposed to replace the existing 2.4 metre timber and barbed wire fence with a 2.4 metre high close board fencing with timber posts, rails and capping. Visually, this fencing would be an improvement on that which exists currently and would be well screened from the proposed landscaping.

As a result of the boundary treatment's acceptability, condition 15 will therefore be removed and the approved plans will be absorbed into condition 2 (approved details).

### **Flooding and Drainage:**

The application is supported by a drainage layout (H1267-402), pursuant of condition 7 of consent 212446.

WBC Drainage have reviewed this layout and consider it acceptable. Condition 7 will therefore be revised to 'compliance only'.

**Landscape and Trees:**

WBC Landscape and Trees have no objections to the variations to the landscaping scheme.

**Neighbouring Amenity:**

The proposed variations result in no further concerns on these grounds.

**Highway Access and Parking Provision:**

The proposed variations result in no further concerns on these grounds.

**Amenity Space:**

The proposed variations result in no further concerns on these grounds.

**Ecology:**

The proposed variations result in no further concerns on these grounds.

**Community Infrastructure Levy (CIL):**

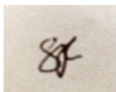
When planning permission is granted for a development that is CIL liable, the Council will issue a liability notice as soon as practicable after the day on which the planning permission first permits development. Completing the assumption of liability notice is a statutory requirement to be completed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

|                           |               |
|---------------------------|---------------|
| <b>Conditions agreed:</b> | Not required  |
| <b>Recommendation:</b>    | Approval      |
| <b>Date:</b>              | 1 May 2025    |
| <b>Earliest date for</b>  | 10 April 2025 |

|                  |  |
|------------------|--|
| <b>decision:</b> |  |
|------------------|--|

|                                                               |                                                                                   |
|---------------------------------------------------------------|-----------------------------------------------------------------------------------|
| <b>Recommendation<br/>agreed by:<br/>(Authorised Officer)</b> |  |
| <b>Date:</b>                                                  | <b>1.5.25</b>                                                                     |