

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	250265
Site Address:	Lee Spring, Latimer Road, Wokingham, RG41 2WA
Expiry Date:	6 May 2025
Site Visit Date:	10/02/2025
Proposal: Application to vary conditions 2, 11, 16, 17 and 25 of planning consent 223691 for the proposed erection of 42 residential apartments in three blocks, including onsite parking, shared amenity spaces, enhanced green spaces to support biodiversity and waste storage facilities. Access for neighbouring garages to be provided by 3.7m wide through-route north of the site. Following demolition of the existing buildings. Condition 2 refers to approved plans, 11 to drainage, 16 to walking and cycling, 17 to electrical vehicles charging strategy, 25 to sustainability. The variation is to allow demolition to be achieved and update the sustainability strategy.	

PLANNING CONSTRAINTS/STATUS

Water Utility Consultation Zones
Contaminated Land Consultation Zone
Affordable Housing Thresholds
Bat Roost Habitat Suitability
Scale and Location of Development Proposals
Great Crested Newt Consultation Zone
Nuclear Consultation Zone
Railways
Tree Preservation Orders
Landscape Character Assessment Area
SSSI Impact Risk Zones
Thames Basin Heaths SPA Mitigation Zones
Local Plan Update Submitted Sites
Great Crested Newt Consultation Zone Minor

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF)
Core Strategy (CS)	CP1 – Sustainable Development CP2 – Inclusive Communities CP3 – General Principles for Development CP4 – Infrastructure Requirements CP5 – Housing Mix, Density and Affordability CP6 – Managing Travel Demand CP7 – Biodiversity CP14 – Growth and Renaissance of Wokingham Town Centre CP17 – Housing Delivery
MDD Local	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits

Plan (MDD)	CC03 – Green Infrastructure, Trees and Landscaping CC04 – Sustainable Design and Construction CC05 – Renewable Energy and Decentralised Energy Networks CC06 – Noise CC07 – Parking CC09 – Development and Flood Risk CC10 – Sustainable Drainage TB05 – Housing Mix TB07 – Internal Space Standards TB08 – Open Space, Sport and Recreational Facilities Standards TB12 – Employment Skills Plan TB23 – Biodiversity and Development TB25 – Archaeology
Joint Minerals and Waste Plan (JMWP)	DM1 - Sustainable Development DM2 - Climate Change – Mitigation and Adaptation DM7 - Conserving the Historic Environment DM8 - Restoration of Minerals and Waste Developments DM9 - Protecting Health, Safety and Amenity DM10 - Flood Risk DM11 - Water Resources DM12 - Sustainable Transport Movements DM15 - Site History
Other	National Planning Policy Guidance (NPPG) Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List Sustainable Design and Construction Supplementary Planning Document Wokingham Town Centre SPD

PLANNING HISTORY		
Application No.	Description	Decision & Date
223691	Full application for the proposed erection of 42 residential apartments in three blocks, including on-site parking, shared amenity spaces, enhanced green spaces to support biodiversity and waste storage facilities. Access for neighbouring garages to be provided by 3.7m wide through-route north of the site. Following demolition of the existing buildings.	Approved (Committee) -
241788	Application to vary condition 2 of planning consent 223691 for the proposed erection of 42 residential apartments in three blocks, including on-site parking, shared amenity spaces, enhanced green spaces to support biodiversity and waste storage facilities. Access for neighbouring garages to be provided by 3.7m wide through-route north of the site. Following demolition of the existing buildings. Condition 2 refers to the approved details and the variation	Approved – 15/01/2025

	is to amend the Accommodation Schedule to reflect the revised provision of affordable housing.	
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CONSULTATION RESPONSES

Internal

WBC Drainage – No objection
WBC Highways – No objection
WBC Growth & Delivery (Planning Policy) – No response
WBC Sustainability – No objection

External

N/A

REPRESENTATIONS

Parish/Town Council	No comments received
Ward Member(s)	No comments received
Neighbours	One objection received from neighbours regarding the principle of development, which was granted within application 223691.

APPRAISAL

Site Description:

The application site is located c18 metres from the edge of Wokingham Town Centre, in the major development location of Wokingham.

The site borders the strategic rail network at Wokingham station and sits adjacent to the train tracks, opposite the Macarthy and Stone assisted living 'Queen's Gate' development which lays to the east and facing a line of terrace dwellings to the north along Barkham Road. To the south-west of the site sits adjacent to maisonettes along Latimer Road. To the south of the site sits the Latimer Road public open space, allotments and Men's shed.

The site has permission under application 223691 to demolish the existing commercial buildings, to replace these with 42 residential apartments. Furthermore, application 241788 was granted in January 2025 to provide an optional approach to affordable housing, either 100% or a policy compliant 30%. Whilst site investigation works have begun, the development has not commenced and this S73 is determined on this basis.

Proposal:

This is an application made pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended) to vary conditions 2 (approved plans), 11 (drainage), 16 (walking and cycling), 17 (electrical vehicles charging strategy) and 25 (sustainability).

Conditions 11, 16 and 17 are proposed to be amended to vary the condition triggers from prior to commencement, to prior to commencement above slab level. This arises from

Condition 25 is proposed to be amended to update the sustainability strategy pertaining to the new development. This is to improve cooling, reduce photovoltaic provision and improve building fabric performance. Condition 2 is proposed to be amended to remove reference to the outdated energy statement submitted in support of the original application (of which is replaced by the updated sustainability strategy prepared pursuant to condition 25).

Procedure:

S73 of the Town and Country Planning Act 1990 provides the ability to vary a condition on a planning permission. The Town and Country Planning (Development Management Procedure) (England) Order 2010 streamlined the procedure to enable local planning authorities to use its discretion on which statutory consultees should be consulted when such an application is submitted.

Section 73 of the Act instructs the Local Planning Authority to consider the variation to, or relief of conditions that are applied for which can be applied to retrospective development, 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.

Section 73 of the Act cannot be utilised to amend the description development as per the high court judgement of *Finney v Welsh Minsters* [2019] EWCA Civ 1868, which ruled "the planning authority cannot use section 73 to change the description of development". The original description of application 223691 was *"Full application for the proposed erection of 42 residential apartments in three blocks, including on-site parking, shared amenity spaces, enhanced green spaces to support biodiversity and waste storage facilities. Access for neighbouring garages to be provided by 3.7m wide through-route north of the site. Following demolition of the existing buildings."* The proposed changes to the condition triggers of conditions 11, 16, 17 and to vary the sustainability strategy (subsequently removing reference to the original strategy within condition 2) does not alter the original description of development nor significantly change the substance of the application. Accordingly, the Section 73 mechanism is procedurally appropriate to consider the proposed amendments having regard for *Finney v Welsh Minsters* [2019] EWCA Civ 1868.

Principle of Development:

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.

Nothing herein varies the principle of development that was granted under application 223691.

Character of the Area:

No amendments are proposed that would impact the external appearance of the previously approved building. The impacts to the character of the area were considered by Members of the Planning committee under application 223691. Nothing within this submission seeks to vary this.

Neighbouring Amenity:

No amendments are proposed that would change the impact of the previously approved building on neighbouring amenity. The impacts to neighbouring amenity were considered by Members of the Planning committee under application 223691. Nothing within this submission seeks to vary this.

Highway Access and Parking Provision:

No amendments are proposed that would change the impact of the previously approved building on highways, access or parking provision. The change to the tenure of the units does not impact the level of parking previously deemed acceptable. The impacts to highways were considered by Members of the Planning committee under application 223691.

Nothing within this submission seeks to vary the purpose of condition 16, however, it is proposed to vary the condition trigger requiring the submission of details from 'prior to commencement' to 'prior to commencement above slab level' to facilitate the demolition of the existing building. The provisions of condition 16 (namely the requirement to submit a survey of the walking environment) do not reach the heart of the original planning permission, and demolition of the building does not hinder the applicant's ability to identify and/or implement improvements to the walking and cycling environment. Therefore, the proposed variation is acceptable and WBC Highways do not raise objection to this amendment.

Alike to condition 16, nothing within this submission seeks to vary the purpose of condition 17, however, it is proposed to vary the condition trigger requiring the submission of details from 'prior to commencement' to 'prior to commencement above slab level' to facilitate the demolition of the existing building. The provisions of condition 17 (the requirement for an electric vehicle charging strategy to be submitted for the approval of the LPA) does not reach the heart of the original planning permission, and demolition of the building does not hinder the applicant's ability to submit this strategy and implement it in accordance with the approved details. Therefore, the proposed variation is acceptable and WBC Highways do not raise objection to this amendment.

Sustainability:

This application seeks permission to vary the sustainability strategy secured within application 223691, namely to increase opportunities for cooling in light of Part O investigations undertaken by the applicant.

CP1 (12) of the Core Strategy states *“planning permission will be granted for development proposals that contribute towards the goal of reaching zero-carbon developments as soon as possible by:*

*a) Including appropriate on-site renewable energy features; and
b) Minimising energy and water consumption by measures including the use of appropriate layout and orientation, building form, design and construction, and design to take account of microclimate so as to minimise carbon dioxide emissions through giving careful consideration to how all aspects of development form.”*

Policy CC04 of the MDD Local Plan 2014 part 1, (a) (as clarified by the WBC Climate Change Interim Policy Position Statement, 2022 (CCIPPS)) encourages schemes to aim for the expected carbon reduction levels of the full future homes standard prior to the standard taking effect (expected in 2025).

CC04 part 1 (b) (as clarified by the CCIPPS) requires water consumption of 110L per person per day including a 5L external water allowance.

Policy CC05 of the MDD Local Plan 2014 part 2 (as clarified by the CCIPPS) - requires 10% carbon reduction relative to Target Emission Rates (TERs) arising from the extant version of the Building Regulations.

The revised strategy notes that Part O (overheating) modelling revealed a significant overheating risk caused by the community heating system originally sampled to provide the initial baseline, due to limitations in window operability caused by noise constraints at the site and unwanted heat transferal in communal areas from pipework. This is not a matter that could have arisen during the original application process but has since been discovered during the building regulations research phase of the development.

The revised statement outlines an energy strategy which uses compression heat pump hot water cylinders of 300% efficiency to supply domestic hot water. These will be provided individually to each apartment, a benefit of that originally approved.

The revised statement states that *“A 0.7 kW peak system is planned for all flats within the development.”* This is smaller than the array proposed in the original strategy. However, this reduction is put forward to facilitate a partially green roof, which will naturally cool the building. This is a benefit of the proposal.

Space heating will be provided by electric panel heaters for rooms, replacing the ASHP community heating proposed in the original strategy which was flagged to be at risk of overheating. Low energy Kelda showers are proposed to be installed in each apartment, which is a benefit of the revised strategy.

Furthermore, compression heat pump hot water cylinders are proposed. Given these are relatively new to the market as noted in the revised statement, WBC sustainability

recommended that the provision of this information is secured by condition. As this stems to a health and safety matter, it would not be reasonable to secure this via planning condition, as it would fail to meet the relevant tests within the Planning Practice Guidance.

Turning to fabric performance (efficiency of fenestration, roofing and floors), the proposal offers preferable external wall efficiency, but marginally reduced floor and roof efficiency to account for inter-level cooling. This is a result of the overheating risk identified during Part O investigations from the applicant and the requisite design changes including solar glaze limitation, additional cooling and integration of heating circulation. Irrespective, the proposed energy strategy is notably more efficient in terms of fabric performance than building regulations require and is above best practice guidance.

Considering the above measures, in combination with fabric performance improvements, they reduce the annual regulated emissions of the development by 54% relative to the baseline of the highest permissible emissions allowable under Part L 2021. This reduction is below than originally modelled in the superseded statement pertaining to condition 25, however, it is noted that building regulations investigations were not carried out within the original permission (which is a separate process) leading to these amendments coming forward at this time.

When the figures are viewed alone in isolation, the proposal does provide lesser sustainability benefits as a percentage (given the loss of communal heating and reduction in photovoltaics), this is given the risks to health and safety found during building regulations investigations which could pose a danger to future occupants combined with increased cooling. On top of the cooling benefits, as well as additional sustainability measures inter-apartment, the proposal remains over five times the policy compliance figure for CC05 and complies with CP1(12) and CC04, furthermore providing comfort that the strategy could be delivered without the detriment to the health and safety of future occupiers. Furthermore removal of reference of the original energy strategy within application 223691 pertaining to condition 2, does not prejudice the applicant's ability to deliver significant energy savings.

Amenity Space:

No amendments are proposed that would change the levels or quantum of amenity space offered. The amenity space proposed was considered by Members of the Planning committee under application 223691. Nothing within this submission seeks to vary this.

Flooding and Drainage:

No amendments are proposed that would change the impact of the previously approved building on flooding and drainage grounds. The impacts and mitigation measures provided were considered by Members of the Planning committee under application 223691.

Nothing within this submission seeks to vary the purpose or intent of condition 11, however, it is proposed to vary the condition trigger requiring the submission of

drainage details from 'prior to commencement' to 'prior to commencement above slab level' to facilitate the demolition of the existing building. The provisions of condition 16 (the requirement to submit full drainage details) do not reach the heart of the original planning permission, and demolition of the building does not hinder the applicant's ability to submit proposed drainage details, nor implement them. Therefore, the proposed variation is acceptable and WBC Drainage do not raise objection to this amendment.

Landscape and Trees:

No amendments are proposed that would change the impact landscaping protection. The landscape impacts and mitigation were considered by Members of the Planning committee under application 223691. Nothing within this submission seeks to vary this, however, it is noted that as a knock on impact of the proposed sustainability statement, a partially green roof is proposed to aid natural cooling which increases landscape provision on site. Details pertaining to condition 6 (hard and soft landscaping details) once submitted, should account for this increased landscaping.

Ecology:

No amendments are proposed that would change the impact of the previously approved building on ecology. The impacts to biodiversity and protected species were considered by Members of the Planning committee under application 223691.

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.

Conclusion:

Conditions 11,16 and 17 and their respective triggers for submission being varied to 'prior to commencement above slab level' are acceptable, do not reach the heart of the permission, nor hinders the applicant to submit these at an appropriate date in future further to demolition.

Whilst the amendments to condition 25 will reduce the carbon savings per annum, per apartment, it would permit a safer and implementable scheme which remains in notable excess of the policy requirement. Accordingly, the proposed variation to the energy strategy (and that referred to within condition 2) is acceptable.

There has been no changes in policy or site circumstances that warrant a departure from the original grant of permission.

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	
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Conditions agreed:	Yes
Recommendation:	Approve
Date:	29 April 2025
Earliest date for decision:	6 March 2025

Recommendation agreed by: (Authorised Officer)	<i>MC</i>
Date:	01.05.2025