

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	252773
Site Address:	1A Wargrave Road, Remenham, Wokingham, RG9 2LT
Expiry Date:	7 January 2026
Site Visit Date:	See PA: 201769
Proposal: Application to vary condition 1 of planning consent 201769 [to remove condition No. 1 of planning consent APP/X0360/D/15/3129161 for the 'Proposed erection of detached outbuilding in rear garden following the demolition of existing shed. (Part retrospective)'.] Condition 1 refers to the removal of the building, and the variation is to extend the time for removal by 24 months.	

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 CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP12 – Green Belt
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 CC07 – Parking CC09 – Development and Flood Risk CC10 – Sustainable Drainage TB01 – Development within the Green Belt TB21 – Landscape Character TB23 – Biodiversity and Development TB24 – Designated Heritage Assets
Joint Minerals and Waste Plan (JMWP)	DM1 - Sustainable Development DM2 - Climate Change – Mitigation and Adaptation
Wokingham Borough Local Plan Update	SS1 – Sustainable development principles SS5 – Development in the countryside SS6 – Development in the Green Belt NE1 – Biodiversity and geodiversity DH1 – Place making and quality design

(LPU)	
Other	Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List

PLANNING HISTORY		
Application No.	Description	Decision & Date
151764	Proposed erection of detached outbuilding in rear garden following the demolition of existing shed. (part retrospective).	Refused, 27/04/2015 Allowed at appeal on 26/10/2015
151061	Proposed erection of single storey front extension to create porch with flue to serve wood burner. (part retrospective).	Refused, 28/04/2015
151091	Application for installation of flue to serve wood burner (retrospective).	Approved, 16/07/2015
201769	Application to remove condition No. 1 of planning consent APP/X0360/D/15/3129161 for the 'Proposed erection of detached outbuilding in rear garden following the demolition of existing shed. (part retrospective)'. Condition 1 refers to the removal of the building on or before five years of the date of the permission.	Approved, 18/08/2020

CONSULTATION RESPONSES
Internal
WBC Drainage – No objections. WBC Enforcement – No comments received. WBC Built Heritage Officer – No comments received.
External
None consulted.

REPRESENTATIONS	
Parish/Town Council	Remenham Parish Council – It is noted that the garden building was required to be removed and the land restored to its former Green Belt condition within a period of 10 years. RPC considered that this period has now elapsed.
Ward Member(s)	No comments received
Neighbours	No comments received

APPRAISAL

Site Description:

Detached dwelling set away from main road behind line of terraced dwellings.

Relevant Planning History

Planning permission under ref: 151764 was originally refused on 27 April 2015 for the erection of a detached outbuilding in the rear garden following the demolition of an existing shed (part retrospective). That decision was subsequently allowed at appeal on 26 October 2015 under appeal reference APP/X0360/D/15/3129161, subject to a time-limited condition requiring the removal of the building and restoration of the land within five years of the appeal decision, therefore on or before 26 October 2020.

Following the submission of a section 73 application, which was approved on 18 August 2020 under planning reference 201769, the time-limited condition was varied to extend the compliance period from five years to ten years from the date of the appeal decision. This was achieved through the variation of Condition 1, resulting in the condition being amended as follows:

*The building hereby permitted shall be removed and the land restored to its former condition on or before ten years from the date of appeal decision APP/X0360/D/15/3129161 dated **26 October 2015**.*

Accordingly, the permission expired on **26 October 2025**.

Proposed variation:

The current application seeks to vary Condition 1 of appeal decision APP/X0360/D/15/3129161, as amended by planning permission 201769, to extend the period for removal of the outbuilding by a further 24 months.

Relevant Legislation:

Section 73 of the Town and Country Planning Act 1990 allows for applications to develop land without complying with conditions subject to which a previous planning permission was granted. However, Section 73 can only be applied where there is an extant planning permission capable of being varied.

The National Planning Practice Guidance (PPG), under Paragraph 015 of section “*Flexible options for planning permissions*” confirms the legal effect of a Section 73 application stating that ‘*Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions*’

The PPG further clarifies that the original permission remains intact and unamended, but critically this only applies if the permission is still valid and active at the time the Section 73 application is submitted.

In *Atwill v New Forest NPA* [2023] EWHC 625, the High Court held that a Section 73 application must relate to an ‘existing, implementable permission’. The Judge

concluded that where a permission has not been lawfully implemented (or has expired), the Authority cannot use Section 73 to vary it, as this would be 'contrary to section 73(5)' of the Act.

Assessment:

Following the grant of planning permission under Section 73 (ref. 201769), condition 1 of the appeal decision APP/X0360/D/15/3129161 was amended to require that:

The building hereby permitted shall be removed and the land restored to its former condition on or before ten years from the date of appeal decision APP/X0360/D/15/3129161 dated 26 October 2015.

Accordingly, the permission expired on **26 October 2025**. This application was made valid on **12 November 2025**, after the expiry of the temporary permission. As the planning permission was subject to a condition limiting the period during which the development was permitted, and that period had ended prior to the submission of the current application, the proposal does not fall within the scope of Section 73 of the Act. The application must therefore be refused.

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 reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. 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	
Recommendation:	Refuse
Date:	5 January 2026
Earliest date for decision:	11 December 2025

Recommendation agreed by: (Authorised Officer)	<i>MC</i>
Date:	06.01.2026