

| Item No | Application No. and Parish | 8/13 week date | Proposal, Location and Applicant |
|---------|-----------------------------|-----------------|--|
| (1) | 18/02623/FULD Hungerford | 5 December 2018 | <p>Resubmission of previously approved scheme for a replacement dwelling (17/03089/FULD) to provide a summer house/exercise room to the rear of the dwelling house.</p> <p>Site of former 145 Priory Road, Hungerford</p> <p>John and Sylvia Downe</p> |

To view the plans and drawings relating to this application click the following link:

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=18/02623/FULD>

Recommendation Summary: **The Head of Development and Planning be
authorise to grant planning permission**

Ward Member(s): Councillor P Hewer
Councillor J Podger

**Reason for Committee
Determination:** 11 letters of objection

Committee Site Visit: Thursday 6th December 2018.

Contact Officer Details

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1. Site History

| Application Number | Decision | Date | Description of Development |
|--------------------|------------------|------|--|
| 18/01925/FULD | Cannot determine | 2018 | Section 73: Variation of condition 10 approved plans of permission 16/02244/FULD. Previously amended by permissions 17/01709/FULD and 17/03089/FULD. |
| 17/03089/FULD | Approved | 2017 | Section 73: Variation of conditions 7: balcony screening, 9: hours of delivery, 10: approved plans of permission 17/01709/FULD. |
| 17/01709/FULD | Approved | 2017 | Replacement of existing dwelling to supersede the previously approved replacement dwelling under permission 16/02244/FULD. |
| 17/02942/COND1 | Approved | 2017 | Application for approval of details reserved by conditions 2: construction method statement, 3: surfacing arrangements, 5: spoil, of permission 17/01709/FULD. |
| 16/02244/FULD | Approved | 2016 | Replacement dwelling. |

2. Publicity of Application

Press Notice Expired: *

Site Notice Expired: 21 November 2018

3. Consultations and Representations

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|---|--|
| Hungerford Town Council: | Clarification sought with reference to Section 73 and that documents are available to public view. |
| Highways: | No objection subject to condition. |
| Environmental Health: | No objection. |
| Tree Officer: | No objection subject to condition. |
| Waste Management: | No objection. |
| Thames Water: | No comments received. |
| Environment Agency: | No comments received. |
| North Wessex Downs Area Of Outstanding Natural Beauty: | No comments received. |
| Land Drainage: | No comments received. |
| Representations: | <p>11 letters of objection. Matters raised include:</p> <ul style="list-style-type: none"> • Over development of the plot • Impact on neighbour amenity • Impact on biodiversity • Noise and chemical smell from plant associated with swimming pool • Replacement dwelling out of keeping with area • Replacement dwelling dominant in street scene |

4. Policy Considerations

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of any planning application must be made in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 The statutory development plan comprises:
The West Berkshire Core Strategy 2006-2026
Housing Site Allocations Development Plan Document 2006-2026
The West Berkshire District Local Plan Saved Policies 2007
The South East Plan 2009 Policy in so far as Policy NRM6 applies
The Replacement Minerals Local Plan for Berkshire 2001
The Waste Local Plan for Berkshire 1998
- 4.3 The following Core Strategy policies carry full weight and are relevant to this application:
National Planning Policy Framework Policy
Area Delivery Plan Policy 1: Spatial Strategy
Area Delivery Plan Policy 5: North Wessex Downs Area of Outstanding Natural Beauty
CS 13: Transport
CS 14: Design Principles
CS 19: Historic Environment and Landscape Character
- 4.4 The following Housing Site Allocations Development Plan Document policies carry full weight and are relevant to this application:
P1: Parking Standards for Residential Development
- 4.5 The saved policies of the West Berkshire District Plan carry due weight according to their degree of conformity with the National Planning Policy Framework. The following saved policies are relevant to this application:
TRANS.1: Meeting the Transport Needs of New Development
OVS.6: Noise Pollution
- 4.6 Other material considerations include government guidance, in particular:
The National Planning Policy Framework 2018
The Planning Practice Guidance Suite
Manual for Streets
- 4.7 In addition the following locally and regionally adopted policy documents are material considerations relevant to this application:
Supplementary Planning Document: Quality Design 2006

5. Description of Development

- 5.1 The application is primarily for an outbuilding in the rear garden. It would have a footprint of 7.1 metres by 4.2 metres, be single storey with a mono-pitch roof of 2.25 metres on the elevation towards the boundary with the neighbouring property, and 2.5 metres on the elevation facing into the rear garden. There would be an additional low section to the far side of the building which would house the plant machinery for the swimming pool to be housed within the outbuilding.

- 5.2 The external materials proposed are painted cement board cladding on the lower elevation, painted V groove MTX cladding to the other elevations, mix fascia roof, and colour coded aluminium windows and doors. The elevation into the garden would have central tri-sliding doors and full height windows either side, a narrow high level window to either end, and a single width door on the south west side elevation. The colour of the external materials are not stated. There would be a paved area through the rear garden to the side door and along the front elevation of the proposed outbuilding.
- 5.3 Included in the application are the same plans as permission 17/03089/FULD for the replacement dwelling on site. At the time of the case officer's site visit the replacement dwelling permitted by 17/03089/FULD had been ostensibly completed externally. Works regarding landscaping to the front and rear of the property had not at that time commenced.

6. Consideration of the Proposal

PRELIMINARY MATTERS

- 6.1 Representations have included queries regarding the planning history of the site and Section 73 applications. The following points seek to answer these queries.
- (1) The original permission for a replacement dwelling on site was 16/02244/FUL. This permission has not been implemented.
 - (2) A separate application was granted permission under 17/01709/FULD. Although reference to the previous permission was made in the description of development it was not an application under Section 73 of the Town and Country Planning Act.
 - (3) Permission 17/03089/FULD was made under Section 73. This part of the legislation allows for applications to remove or vary conditions subject to which a previous permission was granted. The permission varied the conditions of permission 17/01709/FULD – namely the plans to include a car port, the balcony screening, and the hours of delivery. The Section 73 permission sits alongside the original permission. These permissions have commenced on site.
 - (4) The current application is separate. Although the plans for the replacement dwelling are the same as permission 17/03089/FULD the application has not been made under Section 73. The replacement dwelling element of the application is retrospective in so much as that development has commenced, but does not need to be made under Section 73A because it already has planning permission.

PRINCIPLE OF DEVELOPMENT

- 6.2 The proposed outbuilding would normally be permitted development which does not require planning permission (although a certificate of lawfulness for proposed works may be submitted to obtain confirmation from the planning authority). Domestic outbuildings fall under class E of part 1 under schedule 2 of the General Permitted Development Order.

- 6.3 However, when the outbuilding was first proposed under application 18/01925/FULD the original dwelling had been demolished and work had yet to commence on the replacement. As such a householder application was not possible. Furthermore, permission 17/01709/FULD removed permitted development rights and the conditions attached to this permission continue to apply alongside the amendments under 17/03089/FULD. As such it was not possible to submit a householder application for the outbuilding, and there are no permitted development rights available, so the case officer advised that an application for full planning permission for the outbuilding was required.
- 6.4 The submitted plans under this application include the replacement dwelling granted permission by 17/03089/FULD. This was queried during the registration of the application as it already has permission which has commenced and is not a requirement for the outbuilding application.
- 6.5 To restate the content of previous case officer reports policy ADPP1 of the Core Strategy directs development to within settlement boundaries, which this site is. A replacement dwelling is therefore acceptable in principle subject to the development otherwise being in accordance with the development plan. There has been no substantial change to the development plan since the previous permission, although government guidance within the National Planning Policy Framework is now that of 2018 rather than that of 2012.
- 6.6 In terms of the proposed outbuilding usually being permitted development as outlined in paragraph 6.1 above:
- (1) the dwelling on site has not been granted under classes M, N, P, or Q of Part 3 of the General Permitted Development Order (criteria a);
 - (2) the total area of ground covered by buildings within the curtilage would not exceed 50% (criteria b);
 - (3) the outbuilding would not be forward of the principal elevation of the dwelling (criteria c);
 - (4) the outbuilding is not more than single storey (criteria d);
 - (5) the height would not exceed 2.5 metres where it is within 2 metres of a boundary (criteria e);
 - (6) the height of the eaves would not exceed 2.5 metres (criteria f);
 - (7) the outbuilding would not be within the curtilage of a listed building (criteria g);
 - (8) the outbuilding does not include the provision of a veranda, balcony or raised platform (criteria h);
 - (9) the outbuilding does not relate to a dwelling or a microwave antenna (criteria i);
 - (10) and the outbuilding is not a container where there are limits on volume (criteria j).
 - (11) As the site is in the AONB paragraphs E.2 and E.3 also apply; as the building is within 20 metres of a wall of the dwelling it is not restricted in floor area under E.2, and it is not between a side elevation of the dwelling and the curtilage boundary under E.3.

DESIGN AND IMPACT ON THE CHARACTER OF THE AREA

- 6.7 Policy CS 14 states that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area. It further states that development shall contribute positively to local distinctiveness and sense of place. Policy CS 19 seeks to conserve and enhance the functional components of the landscape character and environment. Particular regard will be given to the sensitivity of the area to change, and ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character. Policy ADPP5 requires development to conserve the landscape setting of the AONB.
- 6.8 That the outbuilding would normally be permitted development is a material consideration when assessing its design and impact on the character of the area. The proposed outbuilding is relatively large in footprint, but given the overall size of the rear garden it would not result in an unacceptable level of built form within the plot. The design of the outbuilding is otherwise compact in terms of height and simple in form with the main fenestration facing into the garden. The colours of the external materials have not been submitted, a condition for a schedule of the materials to be submitted prior to any works above ground level is therefore to be applied to ensure the outbuilding blends in with its surroundings. A condition is also to be applied that any spoil arising (as it includes providing a pool) be removed from site within 3 months of the completion, to ensure that the existing ground levels are maintained.
- 6.9 With regard to the replacement dwelling permission 17/03089/FULD is a material consideration and has commenced. Comments from objectors include the significant difference in design between the replacement dwelling and other dwellings within the vicinity, the impact on the street scene and the bulk of the built form being greater than anticipated. Whilst these comments are acknowledged the determination of this application does not affect the previous permission.
- 6.10 There have been no changes to the development plan since the previous permission. As the replacement dwelling plans are the same as the most recent permission, which was assessed as acceptable in terms of design and impact on the character of the area, the replacement dwelling continues to be in accordance with the development plan in this regard.

IMPACT ON AMENITY

- 6.11 Planning Policies CS 14 and CS 19 of the West Berkshire Core Strategy are of importance with regard to the potential impact upon neighbouring amenity. Policy CS 14 requires new development to make a positive contribution to the quality of life in West Berkshire. The Supplementary Planning Document Quality Design discusses light and private garden space.
- 6.12 That the outbuilding would normally be permitted development is a material consideration when assessing the impact on amenity. Whilst the boundary between the application site and that of No. 143 is currently quite open due to the ongoing works for the replacement dwelling, there is a full landscaping scheme within the approved plans of the commenced permission that includes substantial hedging.

Being single storey the proposed outbuilding would not cause substantial overshadowing or loss of light into the residential property of No. 143.

- 6.13 The Council's Tree Officer has requested that previous conditions regarding landscaping are re-applied. Once established, only the eaves and roof would be visible from within the rear garden of No. 143. It is noted that the previous permission although it included the landscaping details in the approved plans condition the landscaping management plan contains dates for the planting which have now passed and that element is no longer capable of fully complied with. As this is an essential element of the proposal and important mitigation to the neighbouring property of both the dwelling and the outbuilding a specific condition to secure the implementation of the landscaping is considered necessary.
- 6.14 The outbuilding would include plant machinery for the pool which could cause noise disturbance to neighbouring occupiers, and policy OVS.6 of the Local Plan requires appropriate measures to minimise any adverse impact from noise generated by development. Details of the power unit to be installed were included within the planning statement and assessed by Environmental Health. They raise no objection to the proposal with regard to the noise impact. A condition that the plant machinery be installed in accordance with the details submitted would be applied.
- 6.15 With regard to the replacement dwelling permission 17/03089/FULD is a material consideration and has commenced. Comments from objectors include the impact on the neighbouring occupiers in terms of overlooking. Whilst these comments are acknowledged the determination of this application does not affect the previous permission.
- 6.16 There have been no changes to the development plan since the previous permission. The first floor level windows on the north-west elevation of the replacement dwelling serve the landing area and bathroom, and not habitable rooms. It is noted that the additional screen to the balcony at the time of the case officer's site visit had yet to be installed. This can be secured by condition. It is also noted that the visibility between properties is greater at present where there is limited boundary treatments and the full landscaping scheme has yet to be implemented. The landscaping will limit the inter-visibility and is to be conditioned.
- 6.17 As the replacement dwelling plans are the same as the most recent permission, which was assessed as acceptable in terms of impact on amenity, the replacement dwelling continues to be in accordance with the development plan in this regard subject to conditions.

HIGHWAYS

- 6.18 Policies CS 13 of the Core Strategy and TRANS.1 of the Saved Policies of the Local Plan relate to highways. Highways were consulted on the application and raise no objection subject to the previous conditions being applied regarding parking and surfacing for the replacement dwelling.

7. Conclusion

- 7.1 Paragraph 54 of the National Planning Policy Framework is clear that Local Planning Authorities should consider whether otherwise unacceptable development

could be made acceptable through the use of conditions. The National Planning Policy Framework goes on to state at Paragraph 55 that conditions should only be imposed where they are: necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other respects. It is also clear that whether it is appropriate for the Local Planning Authority to impose a condition on a grant of planning permission will depend on the specifics of the case. The conditions relating to the previous permission for the replacement dwelling are to be re-applied and updated where necessary as that development has not yet been completed. These include the balcony screen, landscaping, surfacing and parking, as well as conditions for a materials schedule, spoil, and for the plant machinery for the proposed outbuilding.

- 7.2 The proposed outbuilding would provide a domestic outbuilding incidental to the use of the replacement dwelling. Its impact in terms of design, character of the area and amenity are considered acceptable and in accordance with the development plan. That the building would usually be permitted development has also been taken into account.
- 7.3 The plans for the replacement dwelling are the same as the most recent permission. There have been no changes to the local development plan since that permission. The representations regarding the impact of the proposed development have been taken into account. The most recent permission has commenced and can continue to be implemented under that permission. Overall the replacement dwelling is considered to remain in accordance with the development plan.

8. Full Recommendation

- 8.1 The Head of Development and Planning be authorised to grant conditional planning permission.

CONDITIONS

8.2 Commencement of Outbuilding

Development of the domestic outbuilding hereby permitted as shown on the block plan shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

8.3 Approved Plans

The development hereby permitted shall be carried out in accordance with the approved drawings 001 Rev B, 002 Rev B, 518/026/01 Rev A, 518/026/02 Rev A, 003 Rev A, 004 Rev A, 005 Rev A, and 17.DWN.501 Rev C and Planning Statement by Altas Planning received on 10 October 2018.

Reason: For the avoidance of doubt and in the interest of proper planning in accordance with policies ADPP1, ADPP5, CS13, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, policy TRANS.1 of the West Berkshire District Local Plan Saved Policies 2007, policy P1 of the West Berkshire Housing Site Allocations DPD 2006-2026, and the National Planning Policy Framework 2018.

8.4 Construction Management Statement

The development hereby permitted shall incorporate and be undertaken in accordance with the Construction Method Statement received on 24 October 2017 approved by 17/02942/COND1.

Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety in accordance with the National Planning Policy Framework 2018, Policy CS13 of the West Berkshire Core Strategy 2006-2026, and Policy TRANS. 1 of the West Berkshire District Local Plan Saved Policies 2007.

8.5 Hours of Work

No external construction works shall take place outside the following hours:

7:30am to 6:00pm Mondays to Fridays;
8:30am to 1:00pm Saturdays;
nor at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenities of adjoining land uses and occupiers in accordance with the National Planning Policy Framework 2018 and Policy CS14 of the West Berkshire Core Strategy 2006-2026.

8.6 Deliveries

During the development no deliveries shall be taken at the site within the following hours:

08:20am - 09:05am and 14:50pm - 15:50pm, Mondays to Fridays.

Reason: To safeguard the living conditions of adjacent occupiers, and the interests of highway safety particularly pedestrians at the neighbouring school in accordance with Policy CS14 of the West Berkshire Core Strategy 2006-2026.

8.7 Materials schedule for outbuilding

No development above ground level of the outbuilding hereby approved as shown on the block plan shall take place until a schedule of the materials, including final colour, to be used in the construction of the external surfaces of the outbuilding has been submitted to and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to these matters which have been detailed in the current application. Thereafter the development shall be carried out in accordance with the approved materials.

Reason: To ensure that the external materials are visually attractive and respond to local character in accordance with the National Planning Policy Framework 2018, Policies ADPP1, ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design 2006.

8.8 Surfacing

The dwelling hereby permitted shall not be occupied until the driveway has been surfaced in accordance with the approved details on drawing 17.DWN.501 Rev C received on 10 October 2018.

Reason: To avoid migration of loose material onto the highway in the interest of road safety. This condition is imposed in accordance with the National Planning Policy Framework 2018 and Policy CS13 of the West Berkshire Core Strategy 2006-2026.

8.9 Parking

The dwelling hereby permitted shall not be occupied until the vehicle parking and turning space have been surfaced and provided in accordance with the approved drawing 17.DWN.501 Rev C received on 10 October 2018. The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic in accordance with the National Planning Policy Framework 2018, Policy CS13 of the West Berkshire Core Strategy 2006-2026 and Policy TRANS.1 of the West Berkshire District Local Plan Saved Policies 2007.

8.10 Balcony Screen

The dwelling hereby permitted shall not be occupied until the balcony at first floor level on the northern side of the rear elevation (adjacent to 143 Priory Road) has been fitted with an obscure glass screen in accordance with approved drawings 005 Rev A and 004 Rev A received on 10 October 2018. The obscure glazed screen shall be retained in perpetuity, until the balcony is removed. Any replacement shall be like for like, or details of an alternative screen shall be submitted to and agreed in writing by the local planning authority before the screen is changed and which shall then be retained in perpetuity or until the balcony is removed.

Reason: In the interests of neighbouring amenity and to minimise overlooking of the private amenity space at 143 Priory Road in accordance with the National Planning Policy Framework 2018, Policy CS14 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design 2006.

8.11 Plant Machinery in Outbuilding

The domestic outbuilding hereby permitted as shown on the block plan shall not be brought into use until the plant for the endless pool has been installed in accordance with paragraphs 2.15 to 2.20 of the Planning Statement by Atlas Planning received on 10 October 2018. Any replacement of the plant machinery for the endless pool shall be like for like or details of an alternative along with details of its noise output shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of neighbouring amenity and to minimise noise in accordance with the National Planning Policy Framework 2018, Policy CS14 of the West Berkshire Core

Strategy 2006-2026, and Policy OVS.6 of the West Berkshire District Local Plan Saved Policies 2007.

8.12 Landscaping

All landscape works shall be carried out in accordance with the approved plan 17.DWN.501 Rev C received on 10 October 2018 and with the exception of the dates stated the Landscape Implementation, Maintenance and Management Plan by RALD received on 12 June 2017 approved by 17/01709/FULD and 17/03089/FULD. The landscaping scheme shall be implemented within the first planting season following the first occupation of the dwelling. Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within five years of completion of the approved landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved.

Reason: To ensure the implementation of a satisfactory scheme of landscaping in accordance with the National Planning Policy Framework 2018, Policies ADPP1, ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design 2006.

8.13 Spoil

All spoil arising from the development hereby approved shall be removed from site within 3 months of completion of the development.

Reason: To ensure appropriate disposal of spoil from the development and to ensure that ground levels are not raised in order to protect the character and amenity of the area in accordance with the National Planning Policy Framework 2018, Policies ADPP1, ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, and Supplementary Planning Document Quality Design 2006.

DC